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NOMINATIONS—MARCH

HEARINGS

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

MARCH 3, 1988

WILLIAM E. EVANS, TO BE UNDER SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE, NATIONAL OCEANS AND ATMOSPHERIC ADMINISTRATION

MARCH 16, 1988

JOSEPH T. NALL, TO BE A MEMBER, NATIONAL TRANSPORTATION SAFETY BOARD

MARCH 23, 1988

BARBARA McCONNELL BARRETT, TO BE DEPUTY ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION

MARCH 25, 1988

MARC G. STANLEY, TO BE ASSISTANT SECRETARY OF COMMERCE FOR CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS; ROBERT H. BRUMLEY II, TO BE GENERAL COUNSEL; AND FRANK DeGEORGE, TO BE INSPECTOR GENERAL, DEPARTMENT OF COMMERCE

MARCH 28, 1988

ROBERT L. PETTIT, TO BE ASSOCIATE DEPUTY SECRETARY; AND EDWARD R. HAMBERGER, TO BE ASSISTANT SECRETARY FOR GOVERNMENTAL AFFAIRS, DEPARTMENT OF TRANSPORTATION

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DR. WILLIAM E. EVANS, TO BE UNDER SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE, NOAA

THURSDAY, MARCH 3, 1988

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The committee met, pursuant to notice, at 2:20 p.m., in room SR-253, Russell Senate Office Building, Hon. Ernest F. Hollings (chairman of the committee) presiding.

Staff members assigned to this hearing: Mike Nussman, professional staff member and Macky Ayers, minority professional staff member.

OPENING STATEMENT BY THE CHAIRMAN

The CHAIRMAN. The committee will please come to order.

I want to welcome Dr. Evans to the committee and hail his nomination as Administrator of the National Oceanic and Atmospheric Administration.

Good morning. As many of you know, I played a major role in the establishment of NOAA in 1970. Since that time, I have continued my involvement with the agency's programs and budget through my work in this Committee and on the Appropriations Committee.

When NOAA was created, by the President's Reorganization Plan No. 4, I had great expectations for the agency that was born through the consolidation of our Nation's civil ocean and atmospheric programs. Included in the mission of this new agency was a charge to advance the marine and atmospheric sciences, to rehabilitate our fisheries, to monitor and predict our weather, and to determine the effect man's activities would have on the environment. And even with this enormous responsibility and varied areas of jurisdiction, the agency got off to an impressive start. However, over the years, the original vision of NOAA as a scientific agency has become blurred due to diversified economic and political trends. In certain areas NOAA has not been able to fulfill its function as effectively as possible, due in part to budget constraints, but more to blame is the lack of strong leadership by this administration. Particularly over the last 7 years, NOAA has been plagued by conflicting management struggles within the agency, as well as repeated attempts by OMB to slash the agency's budget.

It is especially disturbing that this has occurred at a time when more people than ever before reside along our coast. NOAA's role

has become critical in helping us protect, conserve and manage our natural resources. Thus I believe that it is now more crucial than ever that NOAA be provided with excellent guidance that will promote the agency's many causes in an effective and positive fashion, both within Congress and the administration.

It is for these reasons that I am determined that only the best candidate fill the position of NOAA Administrator. The agency got off to a fine start with the selection of Dr. Robert White, and I have invariably sought to reach the standard set by his appointment in 1970. It is my hope that under new leadership, we can restore the direction and purpose we originally envisioned for NOAA.

Today we will hear testimony from Dr. William Evans, the President's nominee to be Under Secretary of Oceans and Atmosphere of NOAA. Most recently, Dr. Evans has served as Assistant Administrator of NOAA for Fisheries. He received a B.S. in Education from Bowling Green State University, a Masters from Ohio State University, and a Ph.D. from the University of California. He has worked for the convervation and protection of marine resources for over 22 years, becoming the Executive Director and Senior Scientist at Hubbs-Sea World Research Institute in San Diego in 1977. He has served as a member of numerous marine and science organizations, including three years as Chairman of the Marine Mammal Commission.

Dr. Evans, I have just reviewed the FBI report, and for the members of the committee and record, I find it in good order. We know you as the Assistant Administrator of Fisheries for NOAA and feel you have done an outstanding job. We wanted to hold this timely, short hearing for your confirmation, so that Secretary Verity, on your upcoming trip, will have you as a confirmed administrator.

Let me yield to my colleagues here.

Senator Wilson?

OPENING STATEMENT BY SENATOR WILSON

Senator WILSON. Thank you very much, Mr. Chairman.

Mr. Chairman, I have a special pleasure in being at this meeting today. It is obvious that the witness needs no introduction, and I think that is an illustration of the fact that his reputation precedes him. He has been a distinguished public servant for some time. He happens to have a close association with a community of which I am fond, and we are proud of what he has achieved, those of us from San Diego. When I was the mayor there, we were afforded the fringe benefit of being able to pick from an array of talent in a wide variety of fields, and I counted on people like Bill Evans to supply expertise to the city on particular problems that we had.

Since then he has served in capacities where his record of achievement is well known to the committee. He is an eminent scientist. He is a man with a very strong record as a conservationist, and he is a very distinguished public servant.

Something that you may not know is that he once served as Director on the Santa Fe Mountain Community Services District, which I think bespeaks an attitude toward public service all by itself.

In closing, I think he is admirably equipped for an important job, and one in which I will take keen interest.

The CHAIRMAN. Senator Kasten?

OPENING STATEMENT BY SENATOR KASTEN

Senator KASTEN. Mr. Chairman, thank you.

I note when you ran for that office, you ran the right way. You were the only candidate.

Some of us wish we had opportunities to run elections like that ourselves.

I, too, am pleased that you are here, Dr. Evans, and I just want to speak from a very narrow perspective, if I can, for just a minute because, looking at your background and knowing of your work, I believe that you will bring a strengthened Great Lakes perspective to the office with your background of interest and experience with the Great Lakes.

Since coming to the Senate, I have championed the need to raise the environmental management of the Great Lakes to a higher priority, and as Assistant Secretary and Administrator of NOAA, the leadership that you, Bill, provide will be critical to achieving this.

Specifically, I would like to point out that Congress included an important Great Lakes title in the reauthorization of the Clean Water Act last year, and that is now the law. As we discussed a moment ago, we expect to see real progress in upgrading the environmental management and research conducted on the lakes.

I think it is also important to point out that the authorization is for additional work that is needed. It is not a justification for reducing funding on some of the other existing programs. We need to look at management of the environmental resources of the Great Lakes on a basin-wide basis. All of the states in the basin are willing to work together, and I want you to know that I intend to see the Great Lakes title of the Clean Water Act implemented. I intend to see other environmental programs on the Great Lakes enhanced. I look forward to working with you to carry out these important objectives.

So I am pleased that you are before us, and I look forward to supporting your nomination.

The CHAIRMAN. Very good.

I have statements from Senators Bentsen and Cranston that I will include in the record along with your biographical sketch.

[The statements and biographical sketch follow:]

OPENING STATEMENT BY SENATOR BENTSEN

Mr. Chairman, I want to add my strong support for Dr. Evans to be Administrator of the NOAA.

When that position became vacant, I received numerous favorable comments on Dr. Evans. He is well-regarded by commercial and recreational fishermen in Texas and elsewhere for his performance as Assistant Administrator for Fisheries. I was pleased to urge Secretary Verity to select him for NOAA Administrator.

I find his background and experience most impressive. I also believe that his knowledge of NOAA's operations strengthens his ability to hit the ground running in this demanding position.

I hope that this Committee will act quickly and favorably on Dr. Evans' nomination, for I believe that he will perform the duties of NOAA Administrator with skill, fairness and distinction.

OPENING STATEMENT BY SENATOR CRANSTON

Mr. Chairman, I am pleased to have the opportunity to speak for Dr. William E. Evans who has been nominated to serve as Under Secretary for Oceans and Atmosphere and Administrator of NOAA. He has a distinguished record as a research scientist and as a manager of scientific projects. He is well known to the international scientific community. His work as Chairman of the Marine Mammal Commission is respected in the government and among environmental groups.

The job of running NOAA is an important one. Having served as Assistant Administrator for Fisheries, Dr. Evans has proved that he is capable of handling the other elements of NOAA. He has regulatory expertise. He is well-prepared to deal with legislation involving NOAA such as the Endangered Species Act, Marine Mammal Protection Act, National Environmental Policy Act, Magnuson Fishery Conservation and Management Act, Clean Water Act, and Fish and Wildlife Conservation and Management Act. He works well with his colleagues in the agencies that interact with NOAA. He knows the extent of NOAA's responsibility to predict, persuade, inform, and chart. As a member of NOAA's senior management team for over a year and a half, Dr. Evans knows how to lead NOAA's efforts in commercialization of space, restructuring the National Weather Service, and consolidation of NOAA.

I am pleased to support Dr. Evans' nomination.

ERNEST F. HOLLINGS, SOUTH CAROLINA, CHAIRMAN
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United States Senate
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
WASHINGTON, DC 20510-6125

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

(If more space is needed, please use attached REMARKS sheet)

A. BIOGRAPHICAL DATA

1. Name: Evans (Last) William (First) Eugene (Other)

Address: 8314 Draper Lane, Silver Spring, MD 20910 (Current residence)
1825 Connecticut Avenue, NW, Washington, DC 20230 (Business)

2. Position to which nominated: Under Secretary of Commerce for Oceans and Atmosphere
Date of nomination: February 18, 1988

3. Date of birth: October (month) 11 (day) 1930 (year)
Place of birth: Elkhart, IN

4. Marital status: Married
Full name of Spouse: Phyllis Jean Roberts

5. Names and ages of children: Jonathan Arthur Evans, 32; Timothy Justice Evans, 31

6. Education:

Institution	Dates attended	Degrees received	Dates of degrees
Univ. of California Los Angeles, CA	1963/74	Ph.D.	Dec. 1975
Ohio State University Columbus, OH	1953/54	MA	Dec. 1954
Bowling Green State Univ. Ashtabula, OH	1950/53	BS	Dec. 1953
Ashtabula City High School Ashtabula, OH	1946/59	Diploma	

7. Employment record: List all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

From	To	Name of employer	Address	Type of work
1953	1954	Ohio State University	Columbus, OH	Research Assistant Experimental Audiology
1954	1956	U.S. Army/276th AFA Bn	Fort Knox, KY	Lt., Armored Field Artillery Communications Officer
1956	1959	Douglas Aircraft Co.	Santa Monica, CA	Laboratory Research Analyst
1960	1964	Lockheed Aircraft Corp.	Burbank, CA	Senior Scientist, Project Leader Bioacoustic
1964	1966	Part-time NIH Grant Naval Missile Center	Point Mugu, CA	Research Zoologist Marine Mamal Laboratory (MML
1966	1972	Marine Bio-Medical Div. Naval Undersea Center	Point Mugu, CA San Diego, CA	Research/Sr. Scientist (MM and Associate Head
1972	1974	National Marine Fisheries Service, Southwest Center	La Jolla, CA	Advance study fellowship on academic sabbatical and visiting scientist
1974	1976	Naval Under Sea Center	San Diego, CA	Head of the Bio-Analysis Group, Biosystems Division
1977	1986	Hubbs-Sea World Research Institute	San Diego, CA	Executive Director and Senior Scientist
1986	Present	National Marine Fisheries Service, NOAA	Washington, DC	Assistant Administrator

8. Government experience — List any experience in or direct association with Federal, State, or local governments including any advisory, consultative, honorary or other part-time service or positions.

In addition to 15 years of civil service I have served or am serving as a member of:

Steering Committee, U.S. and U.S.S.R. Joint Marine Mammal Program; Section V., Project 6, U.S.--U.S.S.R. Environmental Protection Agreement.

Pacific Regional Technical Working Group Committee, for U.S. Department of Interior, Minerals Management Service, Outer Continental Shelf Program.

U.S. Delegation to International Whaling Commission Meeting, July 1983, Brighton, U.K.

Chairman, Marine Mammal Commission, 1983-1986.

Member United States Man in the Biosphere Committee.

9. Political affiliations activities: — List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last 10 years.

Registered Republican. I ran as a Republican and the only candidate for the Office Director, Santa Fe Mountain Community Services District, County of San Diego, in fall of 1973. Other than this I have not been officially associated with any organization, candidate or issue. My wife worked on the election committee for Congressman Ron Packard in his 1983 campaign.

10. Memberships: — List all memberships and offices held in professional, fraternal, scholarly, civic, charitable, and other organizations.

Past fellow, American Association of Zoological Parks and Aquariums; fellow of the Zoological Society of San Diego; member, the Society for Marine Mammalogy; member, American Society of Zoologists; Alpha Tau Omega, social fraternity; Scholia Fraternity, San Diego, Town and Gown Society; Theta Alpha Phi, Theater Arts Honorary; Sigma Alpha Eta, Speech Honorary; Sigma Xi, International Science and Engineering Honor Society; American Fisheries Society.

11. Honors and awards: — List all scholarships, fellowships, honorary degrees, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Man of the Year, 1982, Portuguese Historical Society of San Diego, CA; fellow, Zoological Society of San Diego; outstanding performance, and sustained superior performance awards, Naval Undersea Center, 1974-1976; director, Porpoise Rescue Foundation; adjunct lecturer, Scripps Institution of Oceanography, University of California San Diego; adjunct professor, San Diego State University; recepient of Silver Medal, with Prof. Alexey Yablokov, for contributions to the Protection of Nature, All Union Science Exposition, Moscow, 1982; and outstanding alumnus, 1985 Bowling Green State University, Ohio.

12. Published writings: — List the titles, publishers, and dates of books, articles, reports, or other published materials you have written.

The CHAIRMAN. Dr. Evans, we would be delighted to hear from you now.

STATEMENT OF DR. WILLIAM E. EVANS

Dr. EVANS. Mr. Chairman, I have a full statement and I have summarized my comments a little bit and tried to personalize some aspect of them.

I certainly am honored to have been nominated for the post of Under Secretary of Oceans and Atmosphere and NOAA Administrator. If confirmed, I would be the fifth person to hold that position. The four previous administrators, Bob White, Dick Frank, John Byrne and Tony Calio each contributed to the development of NOAA, both its mission and the organization.

The first, Robert M. White, was quite literally, like some of you, "present at the creation" of NOAA. He served on the Stratton Commission that recommended the establishment of NOAA. His background was engineering and meteorology, but his record proved that far from having a "too strong weather bias" he worked hard for conservation of the great whales, advanced ocean engineering, and sought coastal zone management responsibilities for NOAA.

Richard A. Frank succeeded White in 1977. His is a legal mind and training with experience in the State Department, public interest causes and international issues including Law of the Sea, marine pollution trade and environmental law.

John V. Byrne was appointed in 1981. A marine geologist from academia, he turned NOAA's focus on better methods of serving the needs of ocean users. On his watch, NOAA activity in remote sensing by satellites increased to support ocean research in fisheries, weather and ocean survey.

Anthony J. Calio was Byrne's deputy and successsor. His background was nuclear physics applied in the private sector and a long career at NASA which started at the dawn of the Space Age. His efforts in fisheries and marine mammals are well known.

Since each Administrator brought to NOAA his unique skills and vision, possessed agenda real or imagined, and left his imprint on NOAA, you need to know where I'm coming from and what I'd bring to NOAA.

During the past 30 years of my career, I have designed and conducted original research in both the life and physical sciences, giving me a pretty broad science background. I have managed and supervised scientists specializing in marine biology, physics, chemistry, aerospace engineering, oceanography and marine engineering. Some people might say that with that broad a background, that maybe I am a jack of all trades and master of none in terms of science, but I do have some specializations.

In my personal research I have concentrated on the use of remote sensing technology in mesoscale studies of ocean marine living resources and their dynamics.

In 1970 I, along with a number of other scientists, were thrilled when we were aware of the executive order by then-President Nixon to form NOAA. We thought that this was a much-needed step. There were a lot of us who felt that at that time space was

beginning to overtake us in some of the things that we were interested in, and that was the fact that we had the atmosphere and the oceans to worry about.

So we were very excited about it. In fact, in 1972 I was asked by the Aeronautics and Astronautics Association to prepare a paper on the future use of space and space technology in oceanography and in the management of living marine resources, which I did, and I presented that in Dallas at their convention in 1972.

I have worked for conservation and the protection of living marine resources for over 22 years, and that probably could be expanded beyond that because I feel as a young man and as a boy I was also a conservationist. I was interested in the wild, interested in nature. During this period I have actively contributed to scientific research, especially in the area of marine bioacoustics. I have supported the Marine Mammal Protection Act from its inception to the present, and the Endangered Species Act, and I have worked with various interest groups involved, including scientific and animal display, fisheries, animal protection, the humane treatment of animals.

You know me, Mr. Chairman and members of the Committee, as the former Marine Mammal Commissioner. I am now the Assistant Administrator of Fisheries, and because of that, I will try to address the broader aspects and scopes of NOAA. I have just found in the last day and a half that although some of my predecessors had said that Fisheries was 60 percent of NOAA, and the rest was only 40 percent, that is an awfully big 40 percent. I have been trying to get my arms around it in the last day and a half, and it is quite a task.

Some people wonder why I want a bigger job when there is so little time. With the current momentum that we have in NOAA, I think a lot can be done in the last year of a second term, and I would like to be a part of that. I believe we are watching NOAA come of age, and a lot of the credit for that belongs to this committee and other Members of Congress who have been the supporters of NOAA.

The people of NOAA and their organization are evolving and maturing. I have had a chance in the last 18 months to see that happen as a member of that team. I like belonging to NOAA. I see a convergence of talent and technology at a time when we are more fully understanding the interactions of the oceans and the atmosphere that drive the earth as a total system.

Our focus in this regard is improving. Each of my fellow Assistant Administrators is, like me, very proud of the organization and resolve of the people in it. We recognize that NOAA is greater than the sum of its parts. We understand each other's problems. The goal of unified management of NOAA is in sight, and I think I have the support in NOAA to help advance it.

I am honored to be considered worthy of following in the footsteps of the previous NOAA administrators, and I intend to continue NOAA's good working relationship with Congress, just as I have as the Assistant Administrator of NOAA in fisheries and as I did before that as the Chairman of the Marine Mammal Commission.

I will work with our sister agencies on issues for which we have integrated responsibility, such as climate, global change, marine

pollution, working towards a safe and healthy environment, which is something that we are all concerned about, outdoor recreation, fisheries, charting, weather, and all of those things that come under the mandate of NOAA.

I certainly am going to aim to avoid turf battles and reduce duplication of effort, and I believe we do have some duplication of effort. We have started a new emphasis in trying to come up with programs to integrate those things that we are doing in what we are now calling the coastal oceans initiative, and I will say more about that later, because this is a very important area. There have been a number of events that have taken place this last summer which I think have focused the importance of that to many of us, and we have read about them in the newspaper.

I would like to put programs of EPA and other organizations who are working with us in the proper perspective with those of the programs of NOAA.

And always sharply focused will be the imperative of NOAA's mission, to be a civil center of excellence and strength for expanding the effective and rational use of ocean resources, for monitoring and predicting—and I think predicting is an important word—conditions in the atmosphere, the oceans and space, and the interaction of all of these, and understanding of these interactions for exploring the feasibility and consequences of environmental modification. NOAA represents the American tradition of practical application of science and technology for the safety and prosperity of our citizens through a focused and a unified approach.

It would be a privilege to lead NOAA in science and resource management in this period. I have been a part of NOAA's senior management team long enough to help see the big picture, and I am ready for the challenge of guiding NOAA's course.

Thank you very much for the opportunity to appear here today, and I appreciate the effort that was taken to have this hearing on such short notice.

Thank you, sir.

The CHAIRMAN. Thank you, Dr. Evans.

Let me say first on behalf of Senator Adams, that he wanted to be here. We had this hearing on short notice, and I know that he is interested in speaking with you, so I ask that your office contact him, or he will be contacting you, because of those Senators who could not be here. They had wanted to meet with you personally, and if you can expedite that, then I am confident that we will be able to take this nomination to the floor. I want to make sure that we not rush past any Members of the Committee here as a result of the short notice.

I like the upbeat attitude. We need it, but it should not obscure the truth, and the truth is the tide has been going out. I organized the Oceans and Atmosphere Subcommittee back in 1967. A former Chairman of this committee on my side of the aisle did away with the whole thing. Necessarily, becoming Chairman, I thought of the reinstitution. But what stood as a roadblock was the administration's attitude, demonstrated by its budget.

I have on the Appropriations Committee, the Subcommittee of Commerce and State, Justice, and in that Commerce and NOAA. Senator Weicker and I have been fighting, along with Senator Ste-

vens, a rearguard action to keep the programs alive. It has gotten so bad that I just got called by my Governor. He wants to designate the port in my home town, Charleston, as an estuary of national significance.

Now, that comes under the Clean Water Act, and as a result of not paying attention and taking care of NOAA and the Coastal Zone Management Program you have now got the Environment Committee coming around and going to designate and take over these particular duties. It is a duplication and a waste.

Our coastal zone management was to have that sort of one-stop permitting, by bringing in the Coast Guard, Army Corps, EPA, the fisheries folks and everyone else. Once we had a state coastal management plan approved, we would put in a Federal consistency provision so that would end it and we would have one permitting agency.

We have broken back out into all kinds of permitting, and the budget for these activities has gone down. At the moment you do not have an Assistant Secretary for Oceans, a General Counsel, an Assistant Administrator for Fisheries, Tony Calio left in September, and they did not recommend you until February.

So we have got to start the engine back up, and like I say, I like your upbeat attitude, but you have got to get with Secretary Verity and the Members here on our committee and let's see what is reasonable and what can be done under these budgetary constraints to get us back to the original plan. I do not know why you have held on. The best and the brightest, when they see the tide going out on an agency like the National Oceanic and Atmospheric Administration, they consider it a dying group, they say you go on over there and join them, but I have got something else to do.

And it has been tough. We started from the very beginning, and it has just dismayed me. So I want that general feeling to be imparted here at this hearing and get right to some of these specifics.

For one thing, let's not toy around with the blooming recreational and coastal fisheries license. That is not going anywhere. So there is no use to come up here and recommend it. We will kill it.

The states have got the commercial fishing license, and it has not gotten so bad in America, that when a fellow wants to fish in the Atlantic Ocean, that all of a sudden he is a criminal because he has come down with his kid to the beach and he has not found a license. I mean, we have not gotten that bad off, and we are spinning our wheels when we waste time along that line.

Otherwise, let's bring up those appointments and then look at the automated observation systems, the weather radars, improved satellites, because the administration proposed to drop the funding for several of those. We cannot afford it. We have got to keep this coordinated, do you not think so?

Dr. EVANS. Yes, sir. I think that we need to have a program, if we are going to modernize weather, we have to have some way of integrating the data, and the AFOS system, which is the one that we are working on now, is one that I think, because of the quality—and I think it was mentioned to me by one of the other members of this committee, something about the quality of science. One of the things that has impressed me very much is that within NOAA there is a talent base which I think is unique in the world.

We have a lot of the hardware, and there are fiscal problems, as you so eloquently have stated. But in the process, we still have continued to go, we are still getting a number of the programs working because we have had individuals who have gotten very innovative and have helped us do that, and I know that is not the best way to do it, and I agree with you that I think one of the things we need to do just as soon as we possibly can, is to sit down with members of your staff and other Members in Congress as well as members of the administration and look just at exactly what we can do within the fiscal constraints.

The fishing license, for instance, was one of the things that, with the arrangement between Congress and the administration, there will be no fishing license legislation which will go forth to cover any 1989 funding, and we are revisiting that whole issue, taking into account some of the statements that you made last year, and trying to follow some of that advice.

The CHAIRMAN. Just one other question because we have more important members here, and I am delighted at their interest here this afternoon.

The unobligated funds for LANDSAT commercialization, we made them available so we could restore that program if a new EOSAT contract was signed by April 1. Now, April 1 is the drop dead date. Otherwise we will not have the funds.

Secretary Verity, who already has a full court press on, wants to commercialize space, and he has not been able to do this yet, and that is a bad track record for Commerce because they promised at least two satellites. The private sector side did what they said they were going to do. The government fell down on this one. And we were trying to support the commercialization.

What about it, Dr. Evans? Are you folks going to have a contract by April 1 so we can go ahead with the funds and keep LANDSAT alive?

Dr. EVANS. Well, in talking with Tom Pyke and some of our people in this, because that was a concern that a lot of us had, I was informed that NOAA and EOSAT expect to complete negotiation and modification of the original contract by the end of March of 1988. This modification will reduce the contract scope to one satellite—that is the LANDSAT VI program—and extend delivery and launch schedules.

Launch now is expected in the spring of 1991, and we expect to have a package to forward for congressional review in the very, very near future, sir.

The CHAIRMAN. Very good.

Senator Wilson?

Senator WILSON. Thank you, Mr. Chairman. Dr. Evans, Chairman Hollings made reference a moment ago to consistency requirements.

The Coastal Zone Management Act is an effort to try to strike a balance so that states which have exerted themselves to produce a coastal management plan of their own can find that there is some necessary consistency on the part of the Federal government in waters outside the state waters.

This is important because of the obvious impact that activities conducted in those waters have on the adjoining state waters, and

for that matter on the entire state, in terms of what is happening in the coastal zone.

Are you familiar with the litigation on this issue?

Dr. EVANS. No, sir, I am not. One of the reasons for that is that, having been involved on the fishery side, I was not really brought into that, because that was an NOS issue.

And when I started to get briefed for it, I was informed that it was in litigation and therefore I was not made privy to some of the information.

But being from California, Senator Wilson, I can assure you that as soon as that gets cleared and I get the opportunity to look at what has happened in that whole thing, I certainly am going to look at it.

Senator WILSON. Well, I am pleased that you are ready to do so. It is in litigation. You are quite correct.

And Mr. Chairman, depending on the outcome of the litigation, I may trouble you to hold yet another hearing that focuses more narrowly on that subject.

Dr. EVANS. I would be more than willing to give you that privilege, and have the opportunity to do that, Senator.

Senator WILSON. Thank you.

The CHAIRMAN. Senator Bentsen?

Senator BENTSEN. Thank you very much, Mr. Chairman. Mr. Chairman, I am surprised California could have so many friends in Texas as this fellow does. But I must say, I am impressed with the kinds of recommendations I have received on Dr. Evans, once the position as head of NOAA was vacated.

And I am impressed with the background, the experience, and delighted to support this. I think you can hit the ground running, and you have enough knowledge of NOAA that I think that will be very helpful to you.

I am really amazed a fellow can have support both from commercial fishermen and recreational fishermen, to the extent that you do, and reconcile the differences.

But I would like to ask you a couple of questions. You know the National Marine Fishery Service Galveston Laboratory is a great resource for us along that Gulf coast. It has been critical to the study of life in the Gulf.

There is a lot of talk in the way of privatization that we are hearing the stories that the Administration is doing some negotiating, possibly with Texas A&M, with their Galveston branch, having some of that work taken over and it is thought it can be done with considerable saving.

Now, at first blush, that sounds pretty good to me. I would like to know at what stage the negotiations are.

Dr. EVANS. The negotiations are, let me put it in another perspective, part of a program that I started in fisheries of trying to establish centers of excellence.

One of the things I feel is really necessary is that I am a great believer in trying to get scientists together. I think three or four scientists getting a chance to sit and discuss things sometimes will come out with a lot better solution than one in isolation.

And so we have tried to wherever possible to try to co-locate our laboratory facilities with university facilities and with other NOAA

facilities, so that we can get, if you will, established centers of excellence.

Galveston was an excellent opportunity to do this. The University of Texas A&M was interested in the land available. They would like to have someplace to build some new buildings.

We still will have a laboratory there. Our personnel will still be there. They will still continue to do fisheries work there. There will be no change in the programs they are doing there.

The only thing that will happen is that the maintenance of the facility——

Senator BENTSEN. Is it a cost savings?

Dr. EVANS. We will get cost savings, because Texas A&M will take care of the facility, maintain it, allow us to use, if we get the contract finally worked out, and the lawyers are still working that over.

And I am sure you are well aware of how much time they can take sometimes. But we are working on that issue. When we get done we will have better laboratory facilities for our fishery scientists, and at the same time——

Senator BENTSEN. So there will be cost savings and benefits too?

Dr. EVANS. Yes, sir. So it, along with some other that we have looked at in other areas, where we can get together with the universities, we can come up with a win-win situation.

Whenever, in this particular fiscal climate, that we can do that, I think it behooves us to do that. Because as the Chairman has said, that these are times now where we still have the needs and there are still needs in terms of being able to do that science. But we have to try to do it as efficiently and effectively as we can.

Senator BENTSEN. You are optimistic you will be able to pull it together and get it through?

Dr. EVANS. Yes, sir. We are very optimistic.

Senator BENTSEN. Do you have any timeframe at all?

Dr. EVANS. I would have to go back and check. I have sort of been away from that issue for the last week or so.

But I know that we have just recently had some meetings, and I think we have had, we are on our second or third draft agreement, which our lawyers are looking at, and hopefully that this will happen within the next few months.

That kind of a timeframe. Rather not days or weeks, maybe a month or two.

Senator BENTSEN. On a different subject, I think principally, that you were responsible for mobilizing the Federal effort and trying to save the redfish, which were under major assault. And I think your study has shown that the redfish is very much endangered.

Can you bring me up to date on that? I would hope in your new position that any influence that you have in that regard could continue to be exercised in trying to accomplish our objective.

Dr. EVANS. Well, we just recently, after looking at the data that we were getting from the rather extensive research project that we were doing in the Gulf, we were not pleased with the results.

We honestly did feel that once we got a chance to do a very detailed analysis of the population levels, that we would see that maybe we had been overly pessimistic. It turns out we were not overly pessimistic.

We found out that, for instance, as you are well aware, maybe some of the other Members are not, but the red drum redfish, which is a particular group of fishes that breed offshore and then the tides and the winds bring the eggs and the larvae into the estuary areas.

The estuerine area is extremely important. Our tests have indicated that, the scientists say that we need to have at least 30 percent escapement. That is, 14, 15, 16-inch fish going back into the breeding population to keep it healthy.

And looking at that population, we found out that it is mostly old folks. And there are not very many of the young reproducing fish in that population. And that is a very dangerous situation.

We are not getting the escapement we thought. We are getting probably less than 2 percent at most places. And so we did put in an emergency, at the recommendation of the Council, and one of the things I am very proud of is that since I have been back with fishery we have worked very closely with Fisheries Management Councils.

I am a strong believer in that system, and in going out and working closely with the states.

Senator BENTSEN. Emergency measures to do that?

Dr. EVANS. The emergency measures are to completely close down all catch of red drum, including incidental take.

Senator BENTSEN. That means commercial?

Dr. EVANS. Commercial, recreational, all of it.

Senator BENTSEN. How long a period of time?

Dr. EVANS. Indefinitely, until we can get measurements of what the escapement rate is going to be, and see some indication.

We are trying to work very closely with the states to see if they can help us, so that they can come up with state laws which will help ensure that we get that escapement rate. We are very, very pleased the state of Louisiana has now come on line and has put a ban on, if you will, a moratorium on the catch of red drum.

There are a number of recreational fishermen who are not very happy with this. But there are others that feel that it is a good issue, and it is something that we need to do. It is not easy. A conservation measure of that type is not an easy thing to do.

The same way Texas is helping and coming on line, and we think eventually we will get the help of all of the states.

Senator BENTSEN. Good. Thank you.

The CHAIRMAN. Senator Bentsen reminds me of the participation of Texas in the institution of your Administration, Dr. Evans.

We had Senator Babe Schwartz and, we had three years of hearings involving county officials, state officials, municipal port authorities, land users, energy, industry, recreational and otherwise.

And when we got ready to move forward with the CZMA, we were blocked by John Erlichman. He was a land-use lawyer and he did not want any land-use legislation to go forward until he got his land-use bill going. Well, it is now 20 some years and he still is yet to have it.

And it is understandable. It is hard to pass a national zoning ordinance, but in essence the Coastal Zone Management Act did that for the coast and areas of the Great Lakes.

We went over with Bob White, who had served on the Commission Dr. Julius Stratton, and I had had a previous law affiliation with John Mitchell when he headed up the firm of Caldwell, Tribble & Mitchell.

And I got him as Attorney General to see President Nixon to get that reorganization plan number four in 1970, and that is how we got NOAA. You have got a tremendous constituency, I can see right now.

I could fill up the room tomorrow with Jacques Cousteau. We do not do it because there is no use to get the best of expertise and bring them in and then nothing happens, just to put on a show to make headlines.

I am interested in making headway. And if you can convince your Administration, we have got tremendous public support for your NOAA activities, in all regards, and perhaps more now than what we have in space.

We have got to start playing catch up ball, and I think you are the gentleman that can do it for us.

We have got Senator Kerry and Stevens, Packwood, several other Senators have questions for you. And I am going to leave the record open for several days for additional comments and those questions.

Do you have anything further?

Dr. EVANS. No, sir. I do not. Other than to mention again that I appreciate the support of not only your Committee but especially the staff in making it possible for us to do this.

And in fisheries, I know that we have had an excellent opportunity, and we have had an excellent record of working with this Committee, and also with Congress in general, at least during the 18 months I have been back here.

And, sir, I plan to continue that policy and strengthen it, if it is at all possible. And I thank you very much.

The CHAIRMAN. Well, we thank you. Senator Harkin also has some questions to be submitted. The Committee will be in recess, subject to the call of the Chair. Thank you very much.

[Whereupon, at 2:50 p.m., the hearing was adjourned.]

[The following information was subsequently received for the record:]

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Office of Legislative Affairs

March 14, 1988

Honorable Ernest Hollings
Chairman, Committee on Commerce,
Science and Transportation
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed are answers to follow-up questions for the record of the March 3, 1988, hearing on the nomination of Dr. William Evans to be Under Secretary of Commerce for Oceans and Atmosphere of the National Oceanic and Atmospheric Administration (NOAA).

Should you, or any of your colleagues, have any further questions, please contact me.

Sincerely,

B. Kent Burton

Questions from Senator Hollings

QUESTION 1:

For the past two years, the Administration has proposed a marine fishing license that would require both recreational and commercial fishermen to purchase an annual license.

- Will we see this proposal come forward this year?
- What are your thoughts on the proposal?

ANSWER A: Yes, we are drafting a revised marine fishing user fee proposal that hopefully will be submitted to Congress by late spring or early summer. Our revised bill will not be linked to the FY 1989 budget but will propose that marine fishing user fees be implemented in FY 1990.

ANSWER B: Over the past year I have tried to address many of the concerns that you, as well as other Members of Congress and the industry, raised regarding last year's proposal. The proposal that we are working on is the result of numerous discussions with OMB, DOC, NOAA, congressional staffs, industry advisory groups, and key members of the fishing community. Our revised proposal will be vastly different than last year's, and represents what I believe to be a fair and equitable way of charging user fees to an identifiable group of beneficiaries of Federal services.

The proposed user fees we now believe should be deposited in a special account in the Treasury to provide dedicated funds to assure continued high priority fishery research at NOAA. We are also looking to avoid interfering with individual State programs and will propose limiting user fees to federally-managed species. Revenues generated would be used to strengthen research and management capabilities, including enforcement activities and the Regional Fishery Management Councils and Interstate Fisheries Commissions.

QUESTION 2:

I recently became aware of EPA's interest in establishing Charleston Harbor as an "estuary of national significance" so that it could be included in the National Estuary Program. As I look at this new program, it seems to me that this program duplicates what NOAA should be doing in their Coastal Zone Management efforts?

- What do I have to do to get some leadership down there at OCRM???

- Why is it that this program gets budget support at EPA but gets redlined in NOAA?

ANSWER: The National Estuary Program at EPA and NOAA's mandate under the Coastal Zone Management Act (CZMA) embody different but complementary concepts and purposes. The two programs are not duplicative. NOAA and EPA have an interagency agreement to facilitate coordination of their respective estuarine efforts. The differences in these efforts are not based on leadership or funding issues.

The congressional mandate for the CZMA is to provide national guidance, technical assistance and funding to the coastal States to implement their coastal management plans. Since 1972, the States and territories have received more than $600 million from the Federal Government in matching funds in the form of grants for the development and implementation of their programs for coastal resource management. Now that 29 coastal States and territories covering 94 percent of the coastline have federally-approved programs, the objectives of the Federal funding have been achieved.

The Congressional mandate for the Estuarine Research Reserve Program, managed by NOAA under Section 315 of the CZMA, is to work cooperatively with the coastal States to acquire and operate high quality estuarine areas as reserves or "sanctuaries." The reserves are managed and protected to serve as natural laboratories for scientific research and education, and to further our understanding of human impacts on estuarine and coastal resources.

NOAA's work in estuarine assessment is not limited to activities under the CZMA. NOAA is currently working in 120 estuaries to provide a national context for resource assessment, planning and management. These efforts include organizing data on the physical characteristics, estimating pollutant discharges, modeling transport, and measuring the concentrations of toxic compounds in indicator species and bottom sediments of the estuaries over time. Because of this, we are re-thinking our approach - this is the Coastal Ocean Program mentioned in my testimony.

EPA's National Estuary Program, established by amendments to the Clean Water Act (CWA) in 1987, is designed to take advantage of existing pollution control regulation authorities under the CWA. EPA is charged with establishing coordinated management efforts for estuaries of national significance, to focus and integrate pollution control efforts for point and non-point sources. Eleven "priority" estuaries are identified in the statute. Since there is obviously an opportunity for some overlap, we will maintain close liaison with EPA.

QUESTION 3:

I understand that you recently gave a speech in my hometown of Charleston, where you indicated that NOAA's primary role is to provide "scientific information for decisionmaking."

- Do you think that the agency, through the Coastal Zone Management Program, is doing a good job of this?

- What do you plan to do to improve the information transfer?

ANSWER: The Coastal Zone Management Act (CZMA) was enacted in 1972 and amended in 1976, 1978, 1980, and 1985 to encourage and assist States in dealing with increasing and competing demands for the use of the Nation's coastal resource areas. The CZMA established the States as the appropriate level of government for developing effective policies and management techniques for coastal lands and waters.

The Administration continues to recognize the national importance of effectively managing and protecting the coastal zone. However, we believe that as a matter of policy, the Federal Government has met its funding obligation to the States for the development and implementation of CZMA programs now that 29 programs have received Federal approval.

Although activities that still require Federal financial assistance will continue, such as the maintenance of necessary NOAA coastal staff, it is believed that the Federal/State role can be embellished by expanding the NOAA focus to include the delivery of coastal information and the transfer of technologies in an effort to support and assist coastal State governments in natural resource management and governmental decisionmaking. I will be closely reviewing our past record in these areas.

In an effort to improve the information transfer, NOAA is aware that there are numerous needs of coastal States and local governments which should be addressed in the future: through the establishment and maintenance of a national/international program of applied research; a centralized approach to the collection, analysis, processing, archiving and distribution of information; reformatting information for the public through Federal/State partnership; and the establishment of a continuing program of analysis for the needs and requirements of users of NOAA's coastal ocean products and information. The end result will be the successful integration and incorporation of data into the decisionmaking process; increased communication between Federal, State and local governments; and the reduction of government duplication (e.g., NOAA versus EPA and Interior responsibilities), which in the long run should save government funds.

QUESTION 4:

There are several important vacancies in NOAA's top management, including the positions of Assistant Secretary for Oceans, General Counsel, and Assistant Administrator of Fisheries. I would like to urge you to move as expeditiously as possible to fill these positions with qualified candidates.

- Are you near a decision on any of these?

ANSWER: Mr. Chairman, there are several candidates to fill the positions which are vacant, and I can assure you that when I am confirmed, I will give it my immediate consideration. There is still much to be done at NOAA for the remainder of this Administration, and I will need the support and skill of all of NOAA's top management to accomplish our goals.

QUESTION 5:

Over the next few years, we will invest hundreds of millions of dollars to procure new weather radars, improved satellites, and automated observation systems for the National Weather Service. Now the Administration proposes to drop funding for AWIPS, the system which would integrate information from all these sources. To me, this seems a little like manufacturing a car without a steering wheel.

- What do you think?

ANSWER: Each of the improved observing systems will make an important contribution of information needed to define weather phenomena and their evolution. This information will support not only the activities of the National Weather Service, but also of the Federal Aviation Administration, Department of Defense weather services, private sector meteorological services and the media, as well as research in atmospheric and related sciences. The National Weather Service will examine alternative cost-effective approaches for replacing the existing information processing, display and communications systems so that the observational data can be used in providing public weather services. AWIPS is a "Cadillic" in these days of fiscal constraints. We will try to make it work with a "Chevy" if it is necessary.

QUESTION 6:

Pursuant to the Continuing Resolution, appropriated but unobligated funds for Landsat commercialization will be available to restore cuts in other NOAA programs if a new Eosat contract is not signed by April 1.

- What is the current status of contract negotiations with Eosat and what issues are preventing a final agreement?

- How have the additional problems with contract negotiations affected the schedule for Landsat 6 and the data gap problem?

ANSWER: NOAA and EOSAT have completed negotiations regarding the development of Landsat 6 and its associated ground system. The results of these negotiations are dependent on the revised USAF launch cost agreement with NOAA for launch of Landsat 6 on a Titan II. Copies of the negotiated contract modification will be sent to the Appropriations Committees as required by Public Law 100-202, Continuing Appropriations for FY 1988. It is likely that there will be a data gap prior to the launch of Landsat 6, which EOSAT now projects for June 1991.

Questions from Senator Inouye

QUESTION 1:

The only portion of the NOAA budget which has not suffered tremendous cuts is that designated for satellites. You say that you see NOAA as a "science and information agency" and also as a manager of our ocean resources. Do you see the ability of the agency to effectively manage our valuable ocean resources lessened by the current division of funds?

ANSWER: No. A manager needs information to be effective, and satellite observations contribute to both oceanographic and atmospheric measurements. We can no longer afford to look at only a part of the globe. The lessons we have learned by, for example, the 1982-83 El Nino, have shown us that so-called "local" events can be global disasters. The idea is to see phenomena existing on a synoptic or large scale rather than looking at point measurements. This approach has helped oceanography tremendously over the past few years. A typical example has been our increased understanding of the El Nino phenomena and the southern oscillation activities. Detail measurements in place are important, but seeing some of these other effects take place, for example, sea surface temperature variations, on a regional or synoptic scale, has been a tremendous advantage to those studying both climate and oceanography.

There can be nothing more important for us than to try to link the interactions or the oceans with the atmosphere. We have tried to do that in the most effective way by both satellite observations, in-place observation, and trying to get other nations to support us in making ocean observations throughout the world.

You may be interested to know, Senator, that I was convinced in 1970 that satellite technology was going to be vital to our understanding of atmospheric and oceanic interchanges - I am still convinced today.

QUESTION 2:

Considering the proposed NOAA budget cuts of nearly 14% across the board, how do you see NOAA's ability to proceed with such programs as climate and global change and the near coastal initiative?

ANSWER: NOAA's proposed budget cuts for FY 1989 are not across-the-board, but are targeted on programs that tend not to be Federal responsibilities.

The Administration and NOAA believe the Climate and Global Change Program to be a very high Federal priority. The climatic effects of ozone, greenhouse gases, and El Nino are extremely important national issues with significant economic implications. These global environmental issues need to be addressed now. Only the Federal Government, in cooperation with other nations, is in a position to insure that these issues are adequately addressed. The Administration is committeed to beginning in FY 1989 a major initiative in Climate and Global Change, with enhancements in future years.

As for NOAA's near coastal efforts, we will have to do a better job with the resources already available. I am convinced we can identify existing resources that are dispersed throughout a number of ocean-related programs in the agency, and thereby establish a critical resource mass to support a new, more focused near coastal initiative. I have already started discussions with senior NOAA managers on ways to make the agency more effective in dealing with the broad range of coastal ocean issues affecting the Nation. Also, we will be conducting an active outreach effort to discuss directly with State and local governments, the academic community, and other consumers of NOAA's coastal and ocean products and services, how we and they can collectively and cooperatively improve and expand our products and services in the most cost-effective way.

We are looking at coastal pollution problems, loss of valuable habitat, natural hazards, warning and mitigation, living resource management, and provision of improved services to coastal-related industries such as shipping and tourism. In all of these areas, NOAA will work to use its existing resources and capabilities more effectively and efficiently to find solutions to problems and to deliver useful products and services to the public.

QUESTION 3:

What kind of role do you see the academic community playing in the planning and implementation of the U.S. global change program?

A. Will any kind of incentives and/or support be offered the academic community for their participation?

ANSWER: The academic science community has played and will continue to play a central and critical role in the development and implementation of a U.S. global change program. It was largely through the efforts of the U.S. National Academy of Sciences that the International Council of Scientific Unions adopted the International Geosphere-Biosphere Program (IGBP). The Academy has established a Committee on Global Change to which the Federal agencies, and the community in general, look for scientific guidance in defining the nature and content of the U.S. contribution to IGBP (i.e., the national global change program). NOAA, along with the other involved agencies, is providing annual support to that Committee and the principal NOAA global change program manager serves as the agency liaison to the Committee.

Academic researchers will also be major participants during the implementation of the national global change program. In NOAA's case, for example, plans call for 20-40% of program funding to be used to support scientific efforts outside the agency. To ensure this participation, the NOAA program is being managed by an office within NOAA which, for the past 15 years, has supported combined university and NOAA programs like to the Global Atmospheric Research Program (GARP) and the Tropical Ocean/Global Atmosphere program (TOGA).

In addition, the external scientific community is an integral part of the management structure for the NOAA program. The recently established university-based Panel on Climate and Global Change is responsible for scientific guidance and will be intimately involved in routine program planning and implementation.

QUESTION 4:

The Sea Grant Program, which the Administration proposes to eliminate each year, is already established in the academic community. Could the Sea Grant Program perhaps be used as the liaison between NOAA's Global Change Program and the academic community?

ANSWER: Sea Grant institutions represent a substantial national capability for marine science and education, particularly in the area of coastal ocean/near-shore processes and marine resource development. Recent Sea Grant authorizing legislation established a specific focus for Sea Grant research on national research priorities such as NOAA's global change program.

A major portion of NOAA and the national program in global change will involve participation of the academic community. A program in global change demands the broadest possible academic involvement. The NOAA program will require a large-scale directed management approach, as has been done in NOAA's TOGA program. The NOAA program already has working relationships with the academic community in both the oceanic and the atmospheric sciences.

NOAA and the Sea Grant community will be working to expand the academic participation as part of the Climate and Global Change Program. We expect the established Sea Grant programs will be major contributors in the study of coastal ocean/near-shore system processes. Sea Grant and the Office of Climatic and Atmospheric Research are already cooperating.

Questions from Senator Bentsen

QUESTION 1:

As you know, the National Marine Fisheries Service (NMFS) Galveston Laboratory has long been an important resource for the Gulf Coast region. It has been critical to the study of marine life in the Gulf and to the various interests dependent on that primary estuary for both recreation and livelihood. As a consequence of this Administration's continuing privatization efforts, I understand that negotiations are underway with Texas A&M University (Galveston Campus) to turn over the operation and maintenance of the laboratory, which may result in significant cost savings to the federal government. At first blush, it seems like a very useful idea and I want to be able to share some of the benefits with my constituents. Could you provide for the Committee an update on the status of the negotiations, a detailed explanation of what NMFS hopes to accomplish through this partnership with leading educational institutions in the Gulf Coast region, and a report on the benefits, including cost savings, of such an arrangement.

ANSWER: A cooperative agreement, involving NMFS, Texas A&M University and Texas Sea Grant, currently is being considered. A draft proposal is being reviewed informally by legal counsel prior to a formal submission from Texas A&M University to NMFS. The basic proposal is to share the existing NMFS Galveston Laboratory facilities with Texas A&M and Sea Grant scientists to conduct individual and cooperative marine fisheries research. One of the options being considered in exchange is for the Texas A&M University system to pay the Galveston Laboratory's annual operation and maintenance cost which currently runs about $150,000.

The primary benefits accrue to all concerned, that is a cooperative research program involving the scientific expertise and capabilities of several institutions. By providing the opportunity for a variety of scientific disciplines to exchange ideas and by sharing resources and financial support, it is expected that a major marine research capability will emerge to focus on the pressing problems in the Gulf of Mexico. From a NMFS viewpoint, the cooperative research should significantly enhance the understanding of the Gulf ecosystem and its marine fishery resources. The result should be improved fisheries management based on better information.

QUESTION 2:

During your tenure as head of NMFS, you were responsible for mobilizing the federal effort to stave off the threatened collapse of the redfish stock in the Gulf of Mexico. I applaud you for your strong response in the face of that dire threat. I am advised that the scientific data accumulated over the last 18 months or so indicate that the redfish spawning stock is severely threatened. There has even been a suggestion that a possible shutdown of both the commercial and recreational fishery could occur if the species is to have a realistic chance of survival. The preservation of the redfish is of vital importance to the Gulf States, and I want to impress upon you my interest -- and I believe the Committee shares it -- in the preservation of this vitally important species in the Gulf. Should you be confirmed, I hope that preservation and restoration of the redfish population in the Gulf will remain a high priority concern of NOAA's under your leadership, and that the Southeast Region of NMFS understands the premium status of the redfish preservation efforts. I am sure that you will continue to utilize the talents, resources and legal authorities of the various state conservation agencies in a cooperative federal-state program.

To this end, I'd appreciate a general update on the redfish situation in the Gulf, and whether, in your judgment, there is a reasonable prospect that the redfish will be saved. In particular, it would be helpful if you could inform us about what action both federal and state authorities will be taking to preserve the redfish.

ANSWER: Based upon the request of the Gulf of Mexico Fishery Management Council and supporting scientific evidence concerning the condition of the red drum (redfish) resource, the Secretary of Commerce promulgated an emergency interim rule on January 1, 1988, to reduce the allowable annual catch of red drum in the Gulf of Mexico from 625,000 pounds to zero. The fishery closure under the emergency rule will continue until June 28, which is the end of the 180-day emergency period allowed under the Magnuson Act. The Council is preparing Amendment 2 to the red drum plan which, if approved and implemented, would continue the zero allowable catch in the Exclusive Economic Zone after the end of the emergency period. The amendment would also revise the management objective concerning the desired escapement level of juveniles from nearshore to the offshore spawning stock (increased from 20 to 30 percent). We expect to receive Amendment 2 for Secretarial review in March.

The NMFS Southeast Regional Director has asked all Gulf State directors to implement similar fishery closures for their waters until such time as the States develop and implement programs achieving the 30 percent juvenile escapement. The Council's special Red Drum Scientific Assessment Group has concluded that

a 30 percent escapement is required to sustain the offshore brood stock at a level which would maintain the fishery in nearshore waters. Escapement beyond that rate may even be required to rebuild the brood stock to a degree permitting the resumption of the offshore fishery at an acceptable level of risk to the resource. The Council concluded that the escapement goal of 20 percent (presently in the FMP and recommended to the States) is inadequate to assure that the spawning stock biomass will remain at a level critical to ensuring that there are adequate spawners to maintain the stock and to allow limited continuation and eventual expansion of the fishery. The Council has requested that the States strive to achieve a 30 percent escapement of juveniles to ensure an adequate spawning stock.

The States are actively participating in the recent efforts to provide greater protection for the stock and to meet the revised escapement goals. Florida and Louisiana have closed their red drum fisheries to all harvest. Texas has designated red drum as a gamefish (no commercial fishery) and established a restricted bag limit. Alabama has prohibited a commercial fishery and imposed a reduced bag limit for recreational fishermen. Mississippi allows a commercial fishery during an open season and imposes a recreational bag limit.

The Council's Scientific Assessment Group has indicated: "The most liberal interpretations of the data available suggest that, at present, escapement of juveniles to the adult stock is less than 2 percent because inshore fishing mortality remains high in all States. Limited observations on the age composition of the offshore stock also support the contention that few fish have reached breeding age during recent years. This possible major decline in recruitment to the adult stock underscores the importance of maintaining and protecting all remaining breeding fish." Success in rebuilding the overexploited red drum stock depends primarily upon the States' actions. A scheduled March 17 meeting of the Gulf States Marine Fisheries Commission in Orange Beach, Alabama, will involve a presentation, by the States, of the latest developments in their red drum management and research programs and a discussion of how these actions serve the attainment of the 30 percent juvenile escapement goal.

Priority Federal and State research will continue in 1988 in support of red drum management. As outlined in the "Research Plan for Red Drum in the Gulf of Mexico" (prepared by the Southeast Center, NMFS, December 1986), several major Federal program areas include: (1) offshore tagging/recapture studies to determine the age structure of the offshore spawning population; (2) stock assessment analysis (to determine stock size) and Gulf-wide coordination of State-conducted tagging studies and analysis of associated data; and (3) inshore research on mortalities, juvenile escapement rates, and other biological profile studies (State-conducted research funded, in part, by Federal money). Conduct of the above resource research is critical to determining the effectiveness of our management program in restoring the red drum resource.

Questions from Senator Kerry

QUESTION 1:

Dr. Evans, there is one budgetary matter which concerns me greatly, and that is what has happened to the National Marine Fisheries Service budget over the past several years. NMFS has been reduced by 43 percent to make it a mere 15 percent of the overall NOAA budget. As the current administrator of the fisheries service whose role is steward of our fisheries, how can you justify this budgetary action?

ANSWER: The proposed FY 1989 budget for the National Marine Fisheries Service is low. I recognize that it is much lower than Congress has appropriated to NMFS in the past. Funds are not requested for some programs which many feel are important. It would be nice to be able to request funding for some of these. Our intent and desire to be provident stewards over fisheries programs should not be judged by the austerity of the Administration's budget request. However, the proposed FY 1989 budget for the National Marine Fisheries Service reflects the reality of the budget deficit problem and the need to continue the progress made by the Administration and Congress in getting the deficit under control by requesting funding only for those activities that are very most essential to conserve and manage the Nation's living marine resources.

It should also be noted that in last year's budget request, an additional $29 million was requested for fisheries programs subject to enactment of a fisheries marine license. As I have stated elswehere, we are reworking this license proposal with the help of Congress, the States, and the various constituent groups in the fishing industry, and will propose it for enactment in connection with the 1990 fiscal year budget. The funds generated by such a proposal I am convinced will be sufficient to cover the most important programs in the National Marine Fisheries Service.

QUESTION 2:

As head of NOAA, is this the direction that you will continue to pursue in regard to budgetary priorities?

ANSWER: The budget priorities for NOAA are continually being evaluated. The FY 1990 budget process will, of course, afford us the next major opportunity to address budget priorities. I feel that the relative priorities within the NMFS budget regarding research to support conservation and management decisions versus fisheries and protected species management and enforcement are sound.

The priorities placed on NOAA's ocean programs, which include fisheries, and NOAA's atmospheric programs should not be judged solely by the amount of funding requested. The fact that to modernize the National Weather Service and to procure Polar and Geostationary satellites, in support of national priorities including those of the ocean community, requires a larger share of the NOAA budget does not reflect a lack of priority being placed on NOAA's fishery and ocean responsibilities. We will always pursue whatever budget priorities deemed necessary to meet NOAA's varied responsibilities.

QUESTION 3:

Many believe that NMFS budgetary problems stem from the fact that it is part of the Department of Commerce. Ideas have floated that perhaps NMFS should be moved over to the Department of Agriculture or the Department of Interior. In lieu of the poor budgetary situation, perhaps it is not such a bad idea, what are your feeling on this?

ANSWER: The so-called poor budgetary situation does not stem from the fact that NMFS or NOAA, for that matter, are part of the Department of Commerce. The same budget climate that exists for us exists for the Departments of Agriculture and Interior. I am afraid that in a budget climate requiring reduced Federal spending that NMFS would be consumed or overshadowed in larger cabinet level Departments with well-established programs for meat and poultry or National Parks and freshwater and other wildlife species.

I do not believe that anything would be solved or improved by moving NMFS out of NOAA. In fact, there is a great benefit to being part of a multi-missioned scientific agency such at NOAA. For example, quick and easy access to satellite data used to address the recent episodes of porpoise mortalities on the east coast and the ability to move one of NOAA's P-3 Orion aircraft from Florida to Alaska to patrol the EEZ in the vicinity of the "donut hole" to curtail illegal fishing by foreign vessels would not have been possible.

Questions from Senator Danforth

QUESTION 1:

A February 17, 1987 New York Times article indicates that the U.S. National Weather Service is lagging in its accuracy of forecasting world weather. As we all know, timely and accurate weather forecasts are of critical importance to aviation, agriculture, and many other industries and to U.S. commerce.

What can be done to restore the U.S. weather forecasting capabilities to preeminent position?

ANSWER: The New York Times article dealt with the relative accuracy of computer-based global weather forecasts produced by the European Center for Medium-Range Weather Forecasts (ECMWF) and by the U.S. National Meteorological Center (NMC). Computer-based forecasts are only one part of the total forecast process and the accuracy of these forecasts is not the same as the accuracy or utility of forecasts issued to the public. Furthermore, ECMWF has as its sole mission the production of medium-range weather forecasts. NMC has a much broader mission; it supports the entire range of U.S. Weather Service forecast activities from short-range forecasts and warnings to monthly and seasonal forecasts. The primary mission of the National Weather Service is the production of accurate short-range forecasts and warnings and the emphasis at NMC is in support of this mission through high-resolution regional numerical and statistical models. We believe that we do an excellent job in this area.

If the U.S. wishes to achieve preeminence in the particular forecast area described by the New York Times, it must acquire more powerful computers for NMC and for the organizations such as NOAA's Geographical Fluid Dynamics Laboratory that provide supporting research. Four centers in Europe, including ECMWF, have more powerful computers than those available to NMC and GFDL and the accuracy of computer-based forecasts depends largely upon computer power.

QUESTION 2:

What is your view of the adequacy of the technical resources available to support both basic research and operational environmental forecasting?

ANSWER: The technical resources are adequate to the task. It is obvious, however, that the resources available ten years ago would not have been adequate now and that current resources will not be adequate in the future. Any science and technology-based activity such as weather predictions and research must introduce new technology at a pace determined by the rate of development of new systems and the availability of funds.

As a Nation, the combination of the scientific and technical resources of NOAA, NAS, NASA, the academic community and science-related industry make us a world leader. New discoveries of the dynamic interaction of the oceans and atmosphere and world consequences are coming at a very rapid rate. A significant number of these discoveries were made by NOAA scientists.

QUESTION 3:

What level of funding is necessary to support the technical needs of NOAA?

ANSWER: We feel that the President's budget requests sufficient funding to support the technical needs of NOAA.

QUESTION 4:

What types of research do you plan to emphasize to improve the ability of U.S. weather centers to make accurate forecasts?

What institutions should be responsible for conducting this research?

ANSWER: U.S. National Meteorological Center (NMC) improves the accuracy of its forecasts by applying not only the results of research conducted within NOAA, but within other government laboratories, U.S. and other universities, and forecast centers of other countries. University scientists and researchers from the National Center for Atmospheric Research have contributed directly to progress at NMC through a visiting scientist program established through the University Corporation for Atmospheric Research. Special relationships exist between NMC and NOAA's Geographical Fluid Dynamics Laboratory (GFDL) and betweer NMC and the nearby NASA Goddard Laboratory for Atmospheres and University of Maryland. Research areas to be emphasized include the representation of physical processes in atmospheric and ocean models, the proper assimilation of new data sets and the display for weather forecasters of computer model output.

NOAA will continue to utilize and build upon the capabilities developed as a result of the modernization of the National Weather Service, e.g., Next Generation Radar (NEXRAD), Program for Regional Observing and Forecast Services (PROFS), thermodynamic and wind profilers. NOAA's Environmental Research Laboratories will continue participating in these efforts.

QUESTION 5:

What kind of support is necessary to encourage basic research to improve environmental forecasting in the U.S.?

ANSWER: Support required to encourage basic research includes access to powerful computers, continuity of funding and access to the real time environmental data base available at the National Meteorological Center, and ground truthing instruments on our ships, data buoys, etc. NOAA, which has the mission for environmental forecasting, must be able, along with other agencies such as NASA, NSF and DOD, to encourage and influence basic research in this area through contract and grant support of university scientists.

Questions from Senator Packwood

QUESTION 1:

The Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 (P.L. 100-239) was signed by the President on January 11, 1988. Section 8(c) of the Act calls upon the Secretary of Commerce to submit a report by June 11, 1988, on the trends in development of U.S. fishery resources and the effects of the Act on such development.

Please provide information on the status of efforts to prepare that report, including the name of the person who is responsible for preparing it, an outline of its contents, the schedule for completing it, and the plans for soliciting information and comments from interested individuals and groups.

ANSWER: NOAA is assessing available sources of information that could shed light on the first study - the transportation of fish products by vessels of the United States from foreign fish processing vessels to points in the United States. We do not plan to require reports of such activity and may have difficulty coming up with hard numbers. (Requiring such reporting would require rulemaking.) The activity itself is legal. I believe we can produce a qualitative report of the potential impact in the six months given to us.

On the other hand, the second study - prefaced with an assessment of trends in the development of fishery resources of the EEZ - may indicate that any impact of transshipment will be short lived. I believe the U.S. processors, particularly those operating floating processing vessels, will very soon be utilizing all available fishery resources in the U.S. EEZ. This is my hope for the near future. This second study will be done in the six months allotted to us.

We are currently just getting organized. The reports will be coordinated by the NMFS Trade Services Division. Prudence Fox, Division Chief, is responsible for completion of the reports. Mr. Terry Ellington is the staff person assigned. We anticipate that the bulk of the information will come from the NMFS Northwest and Alaska Regions. These offices will be responsible for obtaining industry views on these two issues.

QUESTION 2:

The President's budget proposal reduces funding for a number of fishery statistics and research programs that have been very important to the commercial fisheries of the Northwest. Please provide information on what information for what fisheries in the Northwest would be affected by the proposed decreases, how much of a decrease is proposed relative to FY 88 funding levels, and how you would plan to obtain the information that would not be obtained if the proposed decreases were enacted.

ANSWER A: The Pacific salmon fishery is the major fishery impacted in the Northwest by the proposed FY 1989 budget reductions. Lower priority research support and technical advice related to Pacific Salmon Treaty implementation would be terminated along with some Federal funding for State and commission research and management programs. These reductions would eliminate lower priority data management and assessment activities for west coast groundfish, e.g., pollock and sablefish, including studies of the Bering Sea "Donut Hole" problem. The proposed reductions would also affect research on marine mammals in the North Pacific, e.g., Bowhead whales, Dalls porpoise, fur seals, etc., including their interactions with fisheries.

ANSWER B: See attached table for proposed reductions relative to FY 1988 funding levels for Northwest and Alaska region.

ANSWER C: The proposed reductions are directed toward lower priority work for which the principal purpose has been accomplished and the ongoing activities are not critical for program operations. They would involve activities which would be more appropriate for funding by the States, industry, or others if their priority justifies continuation. Program emphasis within the remaining NMFS base programs would be adjusted as necessary to focus on the highest priority issues and information needs which are clearly Federal responsibilities and which might be negatively impacted by the proposed reductions.

Proposed Reductions Relative to FY 1988 Funding Levels for Northwest and Alaska Region

Fisheries Research and Management Program

Resource Information:
FY 1988 Base (Approx.): $20,665K
FY 1989 Proposed Base (Approx.): $10,310K
Proposed FY 1989 NW/AK Reductions:

Resource Surveys ($883K)	- $402K	Fishery oceanography, ecosystem model development
Stock Enhan. & Disease ($3,853)	- $350K	Program funding for Newport, OR. Lab.
Sub-Arctic Res. ($753K)	- $753K	APRISE contract research on bottom-fish recruitment
Pac. Salmon Treaty ($4,708K)	- $4,708K	Contracts and cooperative agreements; Atlantic salmon
Alaska Salmon Enhan. ($3,766K)	- $3,766K	ADFG Contract enhancement work
Japan. Salmon Intercep. ($141K)	- $141K	Data on gillnet interceptions of U.S. origin salmon
Yukon R. Chinook Stu. ($235K)	- $235K	Research on Yukon R. Issues
Total NW/AK Reductions:	- $10,355K	

Fishery Industry Information:
FY 1988 Base (Approx.): $196K
FY 1989 Proposed Base (Approx.): $110K
Proposed FY 1989 NW/AK Reductions:

Econ. & Com. Fish. Stats.($1,919K)	-$86K	Economic analysis and market information
Total NW/AK Reductions:	- $86K	

Information Analysis and Dissemination:
FY 1988 Base (Approx.): $1,798K
FY 1989 Proposed Base (Approx.): $1,798K
Proposed FY 1989 NW/AK Reductions: 0
Total NW/AK Reductions: 0

Fisheries Management Programs:
FY 1988 Base (Approx.): $14,242K
FY 1989 Proposed Base (Approx.): $5,381K
Proposed FY 1989 NW/AK Reductions:

Reg. Fish. Man. Councils($3,766)	-$1,090K	Pacific and North Pacific Council Operations reductions
Columbia R. Program ($7,771K)	- $7,771K	Columbia River hatchery operation and maintenance
Total NW/AK Reductions:	- $8,861K	

Enforcement and Surveillance:
FY 1988 Base (Approx.): $8,249
FY 1989 Proposed Base (Approx.): $8,249
(Note: all enforcement funds allocated to HQ)
Proposed FY 1989 NW/AK Reductions:
Total NW/AK Reductions: 0

Grants to States:
FY 1988 Base (Approx.): $2,074K
FY 1989 Proposed Base (Approx.): 0
Proposed FY 1989 NW/AK Reductions:

Interjurisdictional Grants($3,766K)	-$574K	Pacific NW States grants
Anadromous Fish. Grants ($2,354K)	-$1,500K	Pacific NW States grants
Total NW/AK Reductions:	$2,074K	

Protected Species Research and Management Program

Resource Information:
FY 1988 Base (Approx.): $3,028K
FY 1989 Proposed Base (Approx.): $522K
Proposed FY 1989 NW/AK Reductions:

Protected Species Res. ($1,200K)	- $600K	Dalls Porpoise, IWC whale observers, Bowhead whale research
Marine Mammal Research($1,506)	- $1,200K	Marine mammal lab. ops., fur seal res., remaining Bowhead whale res.
Gear Entanglement ($706K)	- $706K	Entanglement data, education program
Total NW/AK Reductions:	- $2,506K	

Protected Species Management:
FY 1988 Base (Approx.): $598K
FY 1989 Proposed Base (Approx.): $562K
Proposed FY 1989 NW/AK Reductions:
Harbor Seal/Sea Lions - $36K
Total NW/AK Reductions: $36K

Habitat Research and Conservation Program

Resource Information:
FY 1988 Base (Approx.): $2,263K
FY 1989 Proposed Base (Approx.): $1,409K
Proposed FY 1989 NW/AK Reductions:

Habitat Research ($4,833)	- $854K	Habitat processes res, impact investigations
Total NW/AK Reductions:	$854K	

Habitat Conservation:
FY 1988 Base (Approx.): $1,363K
FY 1989 Proposed Base (Approx.): $1,138K
Proposed FY 1989 NW/AK Reductions:
Habitat Conservation ($1,883K) - $225K Permit reviews
Total NW/AK Reductions: $225K

Fisheries Development Program

Fishery Development Program:
FY 1988 Base (Approx.): $1,235K
FY 1989 Proposed Base (Approx.): 0
Proposed FY 1989 NW/AK Reductions:

Fisheries Trade Activities ($1,412K)	-$61K	Industry assistance activities
Product Qua.&Safety Res.($4,143K)	-$1,174K	Technology program in Seattle & Kodiak
Total NW/AK Reductions:	$1,235K	

Questions from Senator Pressler

Landsat Commercialization

QUESTION 1:

In the past, the Administration's support for the commercialization of our satellite land remote-sensing system has been, at best, tenuous. And even though NOAA's FY 1989 budget request provides $34 million for the commercialization of the next Landsat satellite, Landsat-6, continuity of the system and the data beyond this satellite remain in doubt, pending the completion of an ongoing study.

In your opinion, what is the appropriate role of the government in ensuring that there is a continuity of satellite land remote-sensing data? Is there any doubt in your mind as to the importance of acquiring and maintaining this data?

ANSWER: NOAA has recently awarded three contracts to study the respective roles of the government and the private sector in land remote-sensing beyond Landsat 6. We anticipate that these studies will provide the framework for a commercial land remote-sensing system for the 1990's which will ensure the continuity of a land remote-sensing system and its data, with minimum government involvement. Acquiring and maintaining data from a commercial land remote-sensing system is a goal supported by the Administration.

QUESTION 2:

If the study on a commercial Landsat system follow-on to Landsat-6 yields no viable commercial options, what should the government then do -- should the government resume full support of the system to ensure continuity of data?

ANSWER: We expect the studies of an advanced civil Earth remote-sensing system will yield viable options for a commercial system that will ensure continuity of this important data.

QUESTION 3:

In light of the growing international competition in the acquisition of satellite remote sensing data, how reliant should the United States become on data acquired by foreign systems?

ANSWER: The United States will purchase data from both national and foreign remote-sensing systems. However, the U.S. should not become dependent on data acquired by foreign systems if it is commercially feasible to develop and operate a U.S. system.

Landsat Operations

QUESTION 4:

Landsats 4 & 5 continue to orbit and provide useful land remote-sensing data. Yet, just as in FY 1988, the Administration has omitted funding in NOAA's FY 1989 request for continued operation of Landsats 4 & 5 because the satellites are operating beyond their respective design lives.

In view of the fact that these two satellites continue to operate effectively, shouldn't the Administration own up to the fact that there is a real budget requirement for continued Landsat operations? If not, why?

ANSWER: Both Landsats 4 and 5 are operating well beyond their three-year design life. Landsat 4 will start its seventh year of operation in July and Landsat 5 began its fifth year on March 1, 1988. Neither satellite is operating at 100% capability. Some functions are being performed by redundant systems. NOAA monitors the operation of these satellites very closely and will make recommendations concerning their future operation based on the best available information as the end of this fiscal year approaches.

Landsat Data Archive

QUESTION 5:

The Land Remote Sensing Commercialization Act of 1984 calls for the Secretary of Commerce to establish a governmental archive for land remote sensing data. Yet, the Administration has done little, if any, to implement this section of the legislation.

What are your views on the importance of such an archive? Also, I might add that as the future of our own satellite land remote sensing system remains in doubt, a national archive would seem to take on an even greater priority.

ANSWER: We consider the national archive of land remote-sensing data to be important. The Department of Commerce and NOAA have continued to fund archiving activities for data from Landsats 1 through 5 as a part of the Landsat operations budget. We also have made progress in planning with the U.S. Geological Survey for implementation of a land remote-sensing data archive.

QUESTION 6:

Do you believe that NOAA is the logical federal agency to establish this data archive? If not, why and which agency is?

ANSWER: The Land Remote-Sensing Commercialization Act of 1984 assigned responsibility for this new archive to the Department of Commerce which was then delegated to NOAA, the agency responsible for the Landsat program. NOAA, in keeping with the intent of Congress, signed an agreement with the U.S. Geological Survey (USGS) to establish this data archive at the EROS Data Center in Sioux Falls, South Dakota, where the existing Landsat data currently are maintained. This agreement states that the U.S. Geological Survey is the logical agency to assume responsibility for a land remote-sensing data archive and that NOAA and USGS will transfer this responsibility to the USGS in the near future pending passage of appropriate legislation.

QUESTION 7:

Does the FY 1989 NOAA budget request provide funds for the establishment of an archive for satellite land remote-sensing data? If not, why?

ANSWER: The FY 1989 NOAA budget request does not include funds for a separate data archive. Concerns about the Federal budget deficit, including those expressed by the Congress, have prevented such a request from being included in the budget.

Modernization of National Weather Service

QUESTION 8:

The Administration is reviewing a plan to modernize our National Weather Service. As part of this modernization effort, NOAA is developing new weather data gathering systems. Reportedly, this weather modernization initiative will result in the closure of a large number of weather systems as these new systems are implemented.

What do you consider to be a practical and feasible approach to closing weather stations as part of the modernization plan?

ANSWER: Before I respond to the question, I would like to clarify my interpretation of the term "closure" in connection with weather stations. As a result of proposals by the Executive Branch or the Congress over the last ten years to reduce the operational costs of the National Weather Service (NWS) for reasons of economy across the Federal Government, the term "closure" has taken on a very negative connotation. To many people, "closure" of weather stations is synonymous with reduction or degradation of weather services to the public in the vicinity of the NWS station. In the context of our planning for the modernization of the NWS in the 1990's, this concept of station "closure" is not appropriate.

As the preamble to the question acknowledges, we are in the process of modernizing obsolete NWS technology, including the acquisition of new weather data gathering systems. Although we continue to be very cost-conscious about the new technologies, the primary objective of the modernization is to remedy current shortcomings in the fulfillment of the most fundamental NWS mission: to provide severe weather and flood warnings to the public. Rather than degrading service to the public, NOAA is seeking to make NWS services more effective. NOAA is undertaking technical studies to examine the most efficient and effective way to incorporate the technologies into the NWS field office structure. We know from our experimental efforts in Denver and Oklahoma City, that some changes in NWS operations will be necessary to obtain all of the benefits of the new technology. These changes will include realignment of certain office locations to make best use of new observational systems such as the Next Generation Weather Radar (NEXRAD) and the careful application of technologies for automation. When NOAA determines the most "practical and feasible approach" to adjustment of NWS field operations with these new technologies in the 1990's, Congress will have the opportunity to review the approach proposed. In view of the scope and importance of the modernization of the NWS, NOAA will work closely with the Congress over the next eight to ten years to insure that this effort is successful.

Global Change

QUESTION 9:

NOAA, NASA, and NSF have initiated research programs as part of a broader interagency initiative termed Global Change.

Depending on your familiarity with Global Change, what do you believe NOAA's role should be in this initiative?

What do you consider to be the critical elements in coordinating a complex, long-term, interagency research program that also has significant international implications?

ANSWER: NOAA's traditional role is to provide essential focus and scientific information, principally related to the interaction of the ocean and atmosphere, with particular emphasis on prediction of weather and climate. This is a quite different responsibility than that of NASA and NSF - we have a definite "public service" responsibility. The scientific information has traditionally included not only the basic data from atmospheric and ocean monitoring systems, but also the actual practical information products based on those data, i.e., predictions and scientific assessments. The NOAA Climate and Global Change Program is intended to provide these traditional NOAA information products extended to the time-scales of concern (seasons through decades and beyond). This entails conducting a focused program of monitoring, applied research and development directed toward provision of these information products, and drawing from the broader national program to provide consensus information.

The critical aspects of this NOAA program include: (a) focused research and development; (b) a global long-term monitoring program involving the atmosphere, oceans and other aspects of the Earth System; (c) the development and delivery of practical information products (predictions and assessments), as well as the management of essential scientific data supporting these products and the entire national effort. All of these critical elements must be extended and integrated into a true global effort on an interagency and international basis. This, of course, involves other aspects of the behavior of the Earth System beyond NOAA's traditional focused concerns which, however, are covered by other Federal agency activities.

QUESTION 10:

Data management requirements for Global Change will be more demanding and rigorous than most other programs of this nature.

What should NOAA be doing to enhance its data management capabilities in support of the Global Change initiative?

ANSWER: Good data management principles and practices must be an integral part of global change programs. Data management includes standards for data formats, software, hardware, network interfaces, as well as the management of the data streams from observing instruments to data application. Since global change programs are particularly concerned with consistent data over many years, the data management elements of validation, calibration, and quality control are critical. Without a good validation program which allows data sets to be immune from the effects of different sensors, and different measurement techniques, a scientist will not be able to tell, for example, whether the Earth is warming over the last decade, or whether the effect is just due to a change in measurement technique.

NOAA has begun the massive job of coordinating with the other agencies involved in the data management for global change. NOAA, through the National Environmental Satellite Data and Information Service (NESDIS), now chairs an Interagency Working Group on Data Management for Global Change. The goal of this group is to assure availability of the right data to scientists participating in global change research. In order for NOAA to understand the evolving requirements for data of global change research, NOAA has enlisted the support of the National Academy of Sciences to help guide its work.

Questions from Senator Stevens

QUESTION 1:

What actions has NOAA already undertaken to implement the provisions of the driftnet legislation passed last year? Further, what specific actions does NOAA plan to take to implement the driftnet legislation? In particular, please identify who will be responsible for action, outline a detailed time frame for these actions and the objectives NOAA plans to achieve in negotiations with foreign nations.

ANSWER: Two of the five titles contained in the driftnet legislation (that is, Titles II and IV) direct the Department of Commerce to undertake specific tasks and activities relating, respectively, to the problems of plastic pollution and the impact of driftnets on the marine environment. The responsibility for fulfilling most of this work falls to the National Marine Fisheries Service (NMFS). Fortunately, most of the required work is already well in hand due to the ongoing efforts of the Interagency Marine Debris Task Force (IMDTF) and the Marine Entanglement Research Program (MERP) based at the NOAA/NMFS Northwest and Alaska Fisheries Center.

While the primary focus of Title II of the Driftnet Legislation is to implement U.S. compliance to Annex IV of the MARPOL Convention, NOAA/NMFS will address two specific tasks outlined in this portion of the legislation. First, the NOAA/NMFS Office of Protected Resources will be responsible, in consultation with the IMDTF and the EPA, for preparing a report on the effects of plastic materials on the marine environment to submit to Congress by September 30, 1988. Second, the MERP will coordinate with the EPA regarding actions necessary to implement, expand, and continue comprehensive educational and informational projects on the North Pacific, Gulf of Mexico, and Northwest Atlantic Coasts. A three-year public outreach program is scheduled to commence in April 1988 to educate the public regarding the harmful effects of, and the need to reduce, plastic pollution in the marine environment.

In Title IV of the driftnet legislation, the emphasis is to set in motion efforts which are necessary to monitor, assess, and reduce the adverse effects of driftnets. There are four basic tasks that NOAA/NMFS is undertaking pursuant to this part of the driftnet legislation: (1) cooperative monitoring and assessment of the impact of foreign driftnet fishing activities on U.S. marine resources; (2) preparation of a report to Congress by December 29, 1988, on the nature, extent, and effect of foreign driftnet fishing on U.S. marine resources, including an evaluation of information solicited from relevant foreign nations; (3) cooperative efforts aimed at effective enforcement of laws, regulations, and agreements applicable to the locations,

season, and other aspects of foreign driftnet fishing operations; and (4) evaluate and report to the Congress by June 1989 on the feasibility of driftnet marking, registry, and identification systems, uses of alternative driftnet materials, and a driftnet bounty and tracking system.

At this point, I would like to turn to the status of cooperative monitoring of foreign driftnet activities in the North Pacific. Prior to the enactment of the driftnet legislation, NOAA/NMFS initiated consultations with Japanese representatives pursuant to the final decision of the Under Secretary of Commerce on the issuance of a marine mammal incidental take permit to the Japan Mothership Salmon Fishing Federation. Letters on this matter were exchanged between both sides, wherein the Japanese letter indicated the availability to accept the placement of U.S. scientific observers on board the Japanese commercial squid driftnet fishing fleet during both the 1988 and 1989 fishing seasons to monitor mainly the incidental take of marine mammals, especially Dall's porpoise. *

Recognizing that the driftnet legislation addresses broader issues than those related to the final decision of the Under Secretary in the marine mammal incidental take permit process, we have asked the Department of State to initiate negotiations with Japan and others on driftnet issues and have also initiated consultations with both the Departments of Transportation and the Interior regarding seabird issues and enforcement criteria, as required in the driftnet legislation. We anticipate further discussions with the Japanese and others in the near future on this issue.

* This observer placement arrangement is in jeopardy because of a recent decision by the Court of Appeals regarding the Japanese incidental take permit in the U.S. EEZ. This decision will likely be the subject of further legal action in the near future.

QUESTION 2:

Please clarify and legally define the jurisdiction of the International Pacific Halibut Commission and the North Pacific Fishery Management Council regarding allocation of halibut resources among U.S. fishermen. In particular, which body has the specific authority to create new sub areas, approve trip limits, and establish other regulations for the allocation of halibut among user groups? Please be specific as to the procedure that should be followed by user groups, the procedure that both bodies will use to decide jurisdiction and ensure a considered response, and the nature of the appeal process. Further, please establish a procedure for forseeable circumstances, including a situation where both conservation and allocation issues are involved.

ANSWER: Under the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, as amended by a Protocol Amending the Convention signed on March 29, 1979 (the Convention), the International Pacific Halibut Commission (IPHC) has the authority to promulgate regulations designed to develop the stocks of halibut in the Convention waters to those levels which will permit the optimum yield from the fishery and to maintain the stocks at those levels. For this purpose, the IPHC can adopt conservation and management measures set out in Article III, paragraph 3 of the Convention.

Under the Convention and the Northern Pacific Halibut Act of 1982, (the Halibut Act), the Regional Fishery Management Council for the geographic area concerned has the authority to develop regulations for United States waters that are in addition to, but not in conflict with, regulations adopted by the IPHC. This would include regulations to allocate fishing privileges among United States fishermen if such allocation becomes necessary. Any regulations developed by the Councils would only be implemented with the approval of the Secretary of Commerce.

Therefore, councils have authority to develop allocation regulations, and the IPHC has authority to develop conservation and management regulations. I believe councils can do a better job of asserting leadership to resolve some of the difficult allocation issues, and I intend to take steps to encourage the North Pacific Council to do this. There is often no clear line as to whether any particular type of regulation, such as designating a sub-area, adopting a trip limit, or establishing fishing periods, is allocative (and this must be developed by the Council) or for management and conservation (and this should be developed by the IPHC). One must determine the appropriate authority by looking at the purpose and effect of the contemplated regulation. If the primary purpose of the regulation

is to allocate fishing privileges among United States fishermen, the regulation must be adopted by the appropriate Council. If the purpose is conservation and management of the fishery, and not allocation, it should be developed by the IPHC.

If a user group is interested in a regulation for the allocation of halibut, that group should work through the appropriate Council. Both the North Pacific and the Pacific Councils have established procedures for dealing with allocative proposals. This should ensure adequate public participation because the Councils request proposals from the public, discuss the proposals at their meetings, and submit their proposals to NOAA. NOAA then publishes the proposals in the Federal Register for comment and considers public comment before approving the final allocative rules. We think that this was the type of public process that Congress envisioned when it gave the allocative authority to the Councils.

The Councils' staffs work closely with the IPHC, one IPHC Commissioner is a member of the North Pacific Fishery Management Council, and NOAA and NMFS staff members work with all three entities. The bodies decide whether a particular regulation is for allocation or conservation and management through this formal and informal coordination. Ultimately, the Secretary of Commerce must concur with the Secretary of State in the acceptance or rejection of regulations recommended by the IPHC, and the Secretary of Commerce must approve regulations developed by the Councils before they are implemented.

As explained above, an allocative rule follows the standard Federal notice and comment rulemaking. Any interested user should participate in the Council process of developing the rule, and can then submit comments to the Secretary of Commerce when the proposed rule is out for public comment.

Situations where both conservation and allocation issues are involved can be very complex, and we believe that they should be dealt with on a case-by-case basis. We think that our current procedure for coordination among the various entities and final review and approval by the Secretary should work for the forseeable future.

QUESTION 3:

In the event that the legal decision in Kokechik Fishermen's Association v. Secretary of Commerce is not overturned, how will this impact domestic commercial fishing operations currently permitted under 16 USC 1371(a)2 and 16 USC 1371(a)4? Has NOAA made a valid OSP determination for all marine mammal species incidentally taken in commercial fishing operations? Further, does NOAA plan to deny permits to commercial fishing vessels operating in the North Pacific and Bering Sea upon the declaration of depleted status for either the Northern fur seal or Northern (Steller) sea lion, or both? Please clearly define NOAA's specific legal and policy options in each case, and your preferred course of action.

ANSWER: We do not believe the Kokechik holding directly jeopardizes current small take (commercial fishing) exemptions issued under 16 U.S.C. 1371(a)(4) because these exemptions are not subject to the Section 103 requirement of a statement regarding OSP.

NOAA has not made OSP statements for all marine mammal species incidentally taken in commercial fishing operations. Where domestic holders of incidental take permits inevitably take some marine mammal species for which a valid OSP statement has not been published, their current permits are arguably in jeopardy. Most species taken incidental to fishing are taken in small numbers in relation to present population sizes; therefore, impacts are negligible. I believe our limited research funds should be focused on those few species whose interactions with fishing results in significant mortality or whose stock size is not increasing.

Unless the decision in Kokechik v. Secretary of Commerce is overturned, it is very unlikely that new general permits can be issued next year for fisheries which take either northern fur seals or northern sea lions. Once a species is declared depleted, NOAA has no alternative but to prohibit the taking of that marine mammal species except by natives; for scientific research under Section 104; and oil exploration operations; or other methods allowed by Section 101(a)(5) of the MMPA. For commercial fishing operations, the taking of a marine mammal without authorization under a general permit or of a species for which a general permit does not authorize a take, is subject to enforcement provisions under the MMPA.

Our preferred course of action would be for the MMPA to be amended, giving the Secretary the authority to allow the incidental taking of small numbers of depleted and unknown status species by commercial fishing operations.

QUESTION 4:

What is the status of the Model Seafood Inspection Program? How much money has been expended to date? What is the current schedule for completion of this program? Will any further funding be required to complete this program?

ANSWER A: The objective of the Model Seafood Surveillance Program (MSSP) is to design a fishery products inspection program which will provide reasonable protection to U.S. consumers of seafoods. The program is based on the Hazard Analysis Critical Control Point (HACCP) concept and provides for equitable treatment of domestically-produced, imported and exported fishery products.

In order to systematically apply the HACCP concept, the Program opted to follow the recommendations of the National Academy of Sciences (NAS) in a 1985 report on the role of microbiological criteria for foods and food ingredients. The report defined procedures for utilizing HACCP in food processing plants and emphasized the critical role of industry groups in the design, testing, and eventual implementation of a HACCP-based food control system. The hazards associated with each step of a food processing operation and their relative importance are defined, critical control points for the significant hazards and preventative measures to minimize these hazards are identified, and monitoring procedures that can be used for compliance purposes are established. In following the recommendations of the NAS report, the MSSP classified potential consumer hazards in the consumption of seafoods into three categories: (1) product safety; (2) plant/food hygiene; and (3) economic fraud.

Product Safety

It is the intention of the MSSP to have NAS evaluate the safety of fishery products via contract. NAS will be asked to define the product safety issues, evaluate current food control systems (both State and Federal) to deal with these problems and make recommendations for their improvement. Procurement action is underway and notice of our intent to obtain the services of NAS on a sole source basis was published in Commerce Business Daily, December 18, 1987. The advertisement period has now closed and solicitation of a contract proposal from NAS is anticipated in the near future.

Plant/Food Hygiene

This aspect of the study is being addressed through the conduct of industry workshops to develop HACCP models on a commodity-by-commodity basis, followed by in-plant testing of each model design. To date, a total of five workshops have been completed, one each for breaded shrimp, cooked shrimp, raw shrimp and two fresh fish

workshops. The first two workshops were attended by industry members representing 64 percent of the U.S. production of breaded shrimp and 38 percent of the U.S. production of cooked shrimp, respectively. Industry percentage representation at the raw shrimp workshop was 21%. The industry percentage at the two fish workshops has not been estimated. In the development of a HACCP model for breaded shrimp production, the industry participants identified 30 process steps of which nine were considered critical. Similar conclusions were reached in the analysis of cooked and raw shrimp and fresh fish processing.

In-plant testing of the HACCP models developed for breaded and cooked shrimp was initiated January 26, 1988, with the full cooperation of industry. Testing is being conducted at nine plants for each commodity, representative of production volume (three each at small, medium, and large plants) and, to the extent possible, geographical distribution of the plants across the U.S. Testing has been completed at 17 of the 18 plants selected for these two commodities. It is anticipated that the remaining test will be completed by the end of April 1988.

Additional industry HACCP workshops have been scheduled through June 1988 for molluscan shellfish, special product hazards of Hawaii (i.e., ciguatoxin), importers orientation, and blue crabs. Other workshops for FY 1988 yet to be scheduled include: King, Snow, Dungeness crab; specialty items; scallops and lobsters. FY 1989 workshops will concentrate on imports and vessels.

Economic Fraud

The economic fraud hazards that can be associated with the commerce of fishery products are being identified as part of each commodity HACCP model during the conduct of the workshops. They also are subject to in-plant testing before acceptance by the industry and the MSSP.

ANSWER B: To date (FY 1987 and FY 1988), approximately $1,375K has been provided to this program ($680K from congressional add-ons; $241K from NMFS; and $454K of S-K grants for industry to conduct HACCP workshops). The NAS contract is estimated to cost approximately $400K.

ANSWER C: The target date for completion of this program is June 1990. The completed study will include an HACCP program for each industry commodity, a detailed NAS report on the major product safety issues facing the seafood industry with recommendations to address same, options for implementation of an improved seafood surveillance and certification program, a NOAA recommendation for the option of choice, and an economic analysis of this option, including both costs to industry and government.

ANSWER D: The Administration is not seeking further funding for this program in its proposed FY 1989 budget.

Questions from Senator Harkin

Some of my colleagues have already expressed their concern in this hearing for the global environment and, in particular, the effects we humans are having on the global climate of the future. I share their concern about importance of international programs to minimize the consequences of the greenhouse effect. However, I am particularly concerned about preparing national policy that will mitigate greenhouse effects in our corn belt in the 21st century.

QUESTION 1:

Will the "Climate and Global Change" study, now a planned two-year effort, provide information at a level of detail adequate to allow Congress to produce legislation and policy appropriate to each of the nation's ten continental farm production regions? Specifically, will this study provide the minimum essential data needed to initiate strategic planning in the areas of: (a) water diversion and irrigation; (b) biotechnology studies into new temperature hardy plant varieties; and (c) soil moisture retention?

ANSWER: The NOAA "Climate and Global Change" program has been formulated to address practical concerns of a strategic planning and policy formulation nature, such as those specifically listed in the question, i.e., regional and continental agricultural applications covering the range of climate time-scales from the seasonal through multi-decadal and beyond. However, the climate system is exceedingly complex, exhibiting a wide range of responses. The present state of knowledge concerning these responses varies considerably with the phenomena involved. The prospects for some major breakthroughs over the next years are reasonably good for certain phenomena, for example, interannual responses related to El Nino. However, we appear to have a longer way to go for other important aspects of the climate system's behavior such as the recurring decadal periods of drought in the American mid-west and the African Sahel. Consequently, the NOAA program is expected to span two or more decades of focused research and development with expected steady progress and practical achievements over the entire program duration.

QUESTION 2:

In the "Global Climate Protection Act of 1987" the EPA was directed to propose to Congress a coordinated national policy on global climate change. How does NOAA plan to coordinate ongoing work on weather and the climate with EPA?

ANSWER: Climate, the long-term behavior of the atmosphere, involves the complexity of many interactions of the Earth system, i.e., the atmosphere, oceans, land surface and ice cover. The scientific aspects of climate span the traditional mission areas of all of the national science agencies, principally NOAA, National Aeronautics and Space Administration (NASA), and the National Science Foundation (NSF), but also involves the Department of Energy (DOE), United States Geological Survey (USGS), Department of Agriculture (DOA), the Environmental Protection Agency (EPA), etc. EPA has major policy coordination responsibilities under the Global Climate Protection Act which are also the concerns of other important Federal entities, such as the Department of State. The major national science agencies have traditionally approached the coordination of the science and technology through a variety of avenues. However, it was recognized by the Director, Office of Science and Technology Policy (OSTP) that the full coordination of all of the science, application and policy aspects of climate and global change will require a true government-wide approach. To this end, the Administration established the Committee on Earth Sciences (CES) under the Federal Coordinating Council on Science, Engineering and Technology in 1987. The CES will provide a forum for establishing uniform Administration policies and programs on global change. NOAA is a full and active participant with EPA in the CES endeavors. We look to this important new committee to coordinate our work with others, including EPA.

QUESTION 3:

Productivity in Iowa and other farming regions in the continental United States requires accurate long range weather forecasting to guarantee world competitiveness. Accurate long range forecasting requirements can only be met using the most precise short term data collection and interactive processing procedures for obtaining levels of such atmospheric gases as carbon dioxide, and the chlorofluorocarbons. The computer models that will be used by NOAA to produce long-range weather and climate forecasts are, of course, only as accurate as the data used in the computer program algorithms as well as within the validation tools used to assure computer program accuracy.

In light of the Administration's decision not to proceed with the Advanced Weather Interactive Processing System (AWIPS), how will the National Weather Service, and The Oceanic and Atmospheric Research organizations be able to obtain and integrate the precise data needed to construct accurate atmospheric models, conduct research, and improve the accuracy of weather forecasting?

ANSWER: Improved radar, satellite and surface observing systems will provide substantially more and better data on atmospheric phenomena. These data will be collected and archived to support atmospheric model development and research.

An example of NOAA's efforts which currently integrate several data sets to monitor and forecast severe drought is the work which is being done by combining environmental satellite data with rainfall estimates to produce early warning impact assessments of severe drought in the Sahel.

NOAA will examine alternative cost-effective approaches to replacing the existing information processing, display and communication systems so that the observations can and will be used to improve warning and forecast services.

JOSEPH T. NALL, TO BE A MEMBER, NATIONAL TRANSPORTATION SAFETY BOARD

WEDNESDAY, MARCH 16, 1988

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The committee met at 1:40 p.m., in room SR-253, Russell Senate Office Building, the Hon. Wendell Ford, presiding.

Staff members assigned to this hearing: Steve Palmer, senior professional staff member and Macky Ayers, minority professional staff member.

OPENING STATEMENT BY SENATOR FORD

Senator FORD. The hearing on the nomination of Joseph T. Nall to the National Transportation Safety Board will convene. This afternoon we begin with a hearing to consider the nomination of Mr. Nall for a five-year term at the National Transportation Safety Board.

Mr. Nall has been a member since March 1986, after having been confirmed to fill a Democratic seat at the NTSB. In the last two years Mr. Nall has played an active role in advancing the Board's efforts to ensure safety in the aviation, surface and maritime industries. In particular, his background and experience in general aviation have provided insight that has proved particularly helpful to other Board members.

Before joining the NTSB, Mr. Nall worked as an attorney in Smithfield, North Carolina, and prior to that as a minister in both North Carolina and Virginia.

Mr. Nall, that bothers me when you leave the ministry and become a lawyer, but let us hope it works out all right.

Mr. Nall has a bachelor of arts from Furman University, a master of divinity from Southeastern Baptist Theological Seminary, and a juris doctorate from Wake Forest University. Mr. Nall, I am pleased to be chairing today's hearing to consider your nomination, and I look forward to your statement.

I have an opening statement from Senator Hollings that he would like to have included in the record.

[The statement follows:]

OPENING STATEMENT BY THE CHAIRMAN

I am pleased that, with this hearing, the Commerce Committee is able to consider the nomination of Joseph T. Nall to be a Member of the National Transportation Safety Board.

In early 1985, it came to my attention that Joe Nall was interested in being considered for a position with the Safety Board. Having then written the President in support of Mr. Nall's nomination, I was extremely pleased when he was nominated and subsequently confirmed by the Senate to fill a Democratic slot for the two years remaining on that term. With today's hearing, we move closer toward his being confirmed for a term that runs through December 1992.

During his tenure at the Board, Mr. Nall has performed well and earned the respect of his peers. He has led a number of "Go-Team" investigations, most notably the highly publicized Chase, Maryland and Chester, Pennsylvania rail accidents, in a very professional and thorough manner. He has also chaired public hearings aimed at gaining the needed information for the Board to determine the probable cause of accidents in the rail, bus, pipeline, and aviation industries—including the November 15, 1987 Continental Airlines accident in which 27 people died in Denver, Colorado.

Joe Nall came to the Board well grounded in the importance of aviation safety, being a certified pilot and having operated a ground school for pilot training. This knowledge has been subsequently supplemented by his time at the Board, and I believe that today, he makes a highly qualified, strong candidate for the position of Board Member of the National Transportation Safety Board.

I look forward to today's hearing and to his consideration before the Commerce Committee in the near future.

Senator FORD. I believe we have Congressman Lancaster here to introduce you, and then hopefully Senator Sanford will be here also. Congressman, we are delighted to have you, if you want to proceed.

STATEMENT OF HON. MARTIN H. LANCASTER, U.S. REPRESENTATIVE FROM NORTH CAROLINA

Mr. LANCASTER. Thank you, Mr. Chairman, and thank you for the opportunity of appearing before you at this hearing for the purpose of introducing and endorsing Mr. Nall as he is before you today.

I am happy to say that Mr. Nall is a long-time friend of mine and my constituent now. He and I practiced law in neighboring towns, and I first knew him in that role. And I also have known him in other ways, both publicly and professionally.

He was an outstanding civic leader in his home community, chairing The United Way, being very active in leadership roles in the Chamber of Commerce, working in all of the good works of a community that you would expect of a leader of this type.

As you have already indicated, he is a former Baptist minister, and he has not really left the ministry, Mr. Chairman. He has just simply changed the focus of his ministry from a preaching ministry to a lay ministry, and is still an outstanding person in his church, both here in the Washington area——

Senator FORD. Congressman, I could comment on that, but I do not believe I will. He is not saving very many souls where he is now.

Mr. LANCASTER. But that is where the need is, Mr. Chairman.

Senator FORD. I understand that. I understand that well.

Mr. LANCASTER. He also has been very active in various political campaigns, where I also knew him well.

But, more importantly, for the role he is now filling it is his long-time interest in and expertise in the field of aviation, being an instructor pilot himself, having his own flight school, and working very hard in the furtherance of the local airport authority. Of course, he also has two years experience now on the Board, where

he has acquitted himself very well, handling some very tough investigations.

I certainly commend him to you and hope that you will confirm his appointment for a regular five-year term. Mr. Chairman, I am happy to present to you Mr. Joseph Nall.

Senator FORD. Thank you, Congressman. We are very appreciative of your coming and lending your support to this nominee.

Mr. Nall, we are delighted to hold this hearing—and it will be brief because you have had an opportunity to answer a good many questions prior to your hearing. I think that gives us some insight as to your feeling from prior to and after having served a couple of years and looking forward to the future.

So I compliment you on that. We are prepared now for any opening statement that you might have for the Committee.

I will include your biographical sketch and the prehearing questions and answers in the record.

[The material referred to follows:]

ERNEST F. HOLLINGS, SOUTH CAROLINA, CHAIRMAN
DANIEL K. INOUYE, HAWAII
WENDELL H. FORD, KENTUCKY
DONALD W. RIEGLE, JR., MICHIGAN
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RALPH B. EVERETT, CHIEF COUNSEL AND STAFF DIRECTOR
W. ALLEN MOORE, MINORITY CHIEF OF STAFF

United States Senate
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
WASHINGTON, DC 20510-6125

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

(If more space is needed, please use attached REMARKS sheet)

A. BIOGRAPHICAL DATA

1. Name: NALL (Last) Joseph (First) Trippe (Other)

Address: 351 N Street, S.W. (Current residence) 800 Independence Ave., S.W. (Business)

Washington, D.C. 20024 Washington, D.C. 20594

2. Position to which nominated: National Transportation Safety Board Date of nomination: September 25, 1987

3. Date of birth: May (month) 16 (day) 1942 (year) Place of birth: Atlanta, Georgia

4. Marital status: Separated Full name of Spouse: Carolyn Elizabeth Baker Nall

5. Names and ages of children: Molly Elizabeth Nall Age 18

Anna Kate Nall Age 15

6. Education:

Institution		Dates attended	Degrees received	Dates of degrees
Brown High School	Atlanta, Ga.	1956-60		
Furman Univ.	Greenville, S.C.	1960-64	B.A.	1964
Ga. State School of Business Admin.	Atlanta, Ga.	1962		
Emory Univ.	Atlanta, Ga.	1962		
Southeastern Bapt. Theol. Seminary	Wake Forest, N.C.	1964-68	M.Div.	1968
Wake Forest Univ. School of Law	Winston-Salem, N.C.	1970-73	J.D.	1973

7. Employment record: List all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

From	To	Name of employer	Address	Type of work
1965	1969	First Baptist Church	Smithfield, N.C.	Asst. Min.
1969	1970	Beth Car Baptist Church	Halifax, Va.	Minister
1970	1971	Hanes Mills	Winston-Salem, N.C.	Clerk
1972	1972	Womble, Carlisle, Sandridge & Rice	Winston-Salem, N.C.	Law Clerk
1973	1981	Mast, Tew, Nall & Lucas, P.A.	Smithfield, N.C.	Attorney
1981	1986	Joseph T. Nall, P.A.	Smithfield, N.C.	Attorney
1986	present	National Transportation Safety Board	800 Independence Ave. Washington, D.C.	U.S. Govt

8. Government experience: List any experience in or direct association with Federal, State, or local governments including any advisory, consultative, honorary or other part-time service or positions.

Part-time with XII U.S. Army Corps (Res.), Atlanta, and Federal Aviation Administration, Atlanta, during college (1960-63). Attorney for Johnston Co. Board of Alcohol Control. Board member and chairman, Johnston Co. Board of Social Services.

9. Political affiliations activities: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last 10 years.

Co-chmn., "Friends of Jim Hunt," fundraising, 1976 Dem. primary. Member, Johnston Co. Democratic Party, contributing time, services and money in approximate amount of $300. Contributed to both Jim Hunt gubernatorial campaigns and Senate campaigns, about $300. Contributed to Democratic candidates for judgeships, about $300, in county/district races. Contributed about $200 to Charlie O. Whitley for Congress. Contributed about $500 to Bill Nelson for Congress. County Campaign chairman for Eddie Knox for Governor (1983-84), contributing about $1500 in money and $1500 in services and office staff. Contributed about $300 to Democratic candidates for N.C. House and Senate. Contributed about $300 to Steve Little, Marion, N.C. for district attorney. (I was his minister in his teen years.) Contributed $200 to Terry Sanford for U.S. Senate.

Pre-hearing Questions Submitted by the Majority
for
Joseph T. Nall, Member
National Transportation Safety Board

General Safety Issues

1. You have served as a Board Member for nearly two years. Why do you want to be confirmed to the NTSB for a second term? What contributions can you make toward fulfilling the Board's broad mission of ensuring transportation safety?

Response: For nearly two years I have been very fortunate in being associated with such a deeply committed, highly competent and strongly motivated organization as the NTSB. During its history the Board has made significant decisions affecting transportation safety. As the Federal "watchdog" of transportation safety, the Safety Board, through each individual career professional employee and Board Member, has a unique opportunity to effect creative change and improvement in America's transportation systems. Our work is demanding and sometimes controversial; however, it is extremely rewarding. I am eager to continue to participate in the challenge to improve transportation safety.

As for contributions which I feel I can make toward fulfilling the Board's broad mission of ensuring transportation safety, I offer the following:

a. The ability to create an atmosphere of objectivity, openness and diligence in accident investigations, hearings, and Board meetings.

b. Technical competence based upon prior experience in aviation and surface transportation, plus experience in other modes of transportation gained during the two years of service at the Board.

c. The ability to work cooperatively with staff and Board Members to arrive at consensus, whenever possible.

d. Support of flexibility and creativity in fostering new ideas and approaches among staff, Board Members, Federal agencies, and private industry.

e. The enthusiastic representation of the Board's safety agenda by public speeches and testimony.

f. An emphasis on open and candid communication with industry and regulatory agencies to solve common goals of transportation safety.

g. The ability to use my experience as a practicing attorney in the investigative and hearing process, in the report and safety recommendation process and in the process of deliberation of the appeals of certificate actions from administrative law judges to the Board.

2. If confirmed, what are the areas of transportation safety to which would you give the highest priority during your second term?

Response: The items to which I would give the highest priority are contained in the answers to Question 3 below. In addition to those most critical safety areas, the following represent other areas of transportation to which I would give high priority:

a. Aircraft operations in severe weather conditions, with particular interest in windshear detection and avoidance, icing detection, radar, and airborne flight guidance systems.

b. Pilot training, experience, crew pairing, cockpit resource management and other human factor issues relating to flight crews, with particular focus on the commuter airline industry.

c. Rapid implementation of an automated air traffic control system.

d. Flight and duty time issues among commercial pilots as related to crew performance and fatigue.

e. Safety of heavy trucks on American highways, with particular emphases on driver duty time, alcohol/drug involvement and vehicle maintenance.

f. The deterioration of highway and bridges.

g. Crashworthiness of rail passenger cars including seat back padding retention, seat locking mechanisms, dining equipment securement and overhead luggage restraint.

h. The labeling and transporting of hazardous materials in all modes of transportation.

3. Of these, what is the single most critical safety matter that needs immediate attention in each of the aviation, rail, motor carrier, maritime, and pipeline industries?

Response: In aviation, the most critical issue is the safe and efficient management of commercial, business and general aviation air traffic within the concentrated airspace surrounding major air carrier hubs. Of concern are recent increases in near midair collisions, runway incursions and controller errors. Aggressive and continued progress in development of TCAS III for air carriers and less sophisticated collision warning systems for general aviation aircraft is most important. Increasing the number of full performance level air traffic controllers is mandatory. Finally, within the general concern for air traffic management, I support the Federal Aviation Administration's (FAA) efforts to establish an automated flow control system to assure not only the identification of saturated en route sectors, but also to assure that the enhanced computer predictive program capabilities are implemented no later than June 1988, before the summer months of heavy traffic.

Regarding rail safety, the most obvious, critical safety issue is the fitness for duty of the operating employees in that industry. Because that issue is already receiving enhanced scrutiny, I would call attention to another critical area: The prompt installation on passenger and freight trains of automatic train controls or other automated stopping devices, not only on the busy Northeast Corridor, but also on other heavily used connecting railroads where the mix of freight and passenger trains poses a threat to rail safety similar to that in the tragic accident at Chase, Maryland in January 1987.

Regarding motor carriers, now that the Commercial Motor Vehicle Safety Act of 1986 has been signed into law and the single national commercial drivers license is mandatory, there is a critical need for mandatory, formal truck driver training and implementation of rulemaking for standardized requirements for the issuing of licenses by the states.

Easily, the single most critical marine issue is the dismal safety record of uninspected commercial fishing vessels. This industry has an accident rate seven times greater than the U.S. industrial average. Critical to improvement is the enactment of Federal legislation (S. 849) requiring uninspected commercial fishing vessels to install minimum safety equipment and other safety items contained in that legislation. Further improvement can be attained by the licensing of captains, training of crew members in emergency procedures, establishing stability requirements, and mandating vessel inspections.

Finally, in the pipeline industry, there is a need for continued emphasis by Federal and State regulatory bodies and industry leadership on the inspection of pipeline systems to assure adequate corrosion protection and pipeline conditions. There is additional need for research and development in intra-pipe inspection devices and techniques.

4. What Safety Board accident investigations have you headed in the field and what follow-up hearings have you chaired during your time at the Board? Based upon these experiences, what suggestions do you have for making the Board better able to determine the probable cause of accidents, as well as issued and follow-up on safety recommendations?

Response: Since 1986, I have launched with the "go-team" as the Board's spokesman in the following accidents:

August 23, 1986, SEPTA train collision with 69th Street terminal in Philadelphia, Pennsylvania; October 9, 1986, Amtrak derailment on the Soo Line Railroad at Fall River, Wisconsin; November 6, 1986, collision of a Piper PA-23 and a Pan American 727 at Tampa International Airport, Florida;

January 4, 1987, Amtrak passenger train collision with Conrail freight engines at Chase, Maryland; and January 29, 1988, Amtrak collision with work train at Chester, Pennsylvania.

I have chaired the following public hearings during my tenure at the Board:

October 1986, St. Paul, Minnesota, Williams Pipe Line Company, pipeline explosion on July 8, 1986, in Mounds View, Minnesota; February 1987, multiple collision with an intercity charter bus and transit bus, South Bergen, New Jersey, which occurred on October 9, 1986; August 1987, Phoenix, Arizona, collision and derailment of two Southern Pacific freight trains in Yuma, Arizona, on June 15, 1987; and March 1988, Denver, Colorado, crash of Continental DC-9 at Stapleton Airport on November 15, 1987.

The quality of findings of probable cause (and their concomitant safety recommendations) is a function of numerous variables, for example, preservation of wreckage, witness reports, the presence or absence of flight data recorders and cockpit voice recorders, and witness and party cooperation. However, the most important limitation on the ultimate quality of the Board's product is the amount and quality of resources the Board is able to devote to particular accidents. The Board has suffered severe reductions in manpower and financial resources during the past seven years, at a time when the population continues to grow and is increasingly becoming more mobile. The result is that we are being required to investigate more accidents with fewer persons.

Coincident with the increase in the number and complexity of accident investigations, the Board also has been facing increased difficulty in competing for and retaining experienced and well qualified technicians and investigators. The task of an accident investigator requires long, arduous hours and an aptitude and enthusiasm for finding the accident cause. When talented persons are working long, often uncompensated, hours on a near-continuous basis, it takes its toll, both of the person and the product. When one considers that the demands of the job frequently take our staff away from their families at a moment's notice for extended periods of time, it is understandable that they seek positions which offer comparable, perhaps increased pay and a more predictable lifestyle. We are, simply, prone to "investigator burn out."

The single best suggestion to improve the probable causes (and the safety recommendations that flow from these findings) is to improve the quality of the accident investigations through more realistic funding and staffing.

The investigative process, because it is subjected to the scrutiny of the media, industry and other Federal agencies, is continually the subject of analysis among Board Members and staff. Hence, there is an ongoing quality control process of which I have been a part. We work as carefully as humanly possible to derive an accurate probable cause with the information developed during the investigation. However, additional funding would greatly enhance the Board's investigative efforts and result in an even greater safety return from improved techniques (such as development of computer graphics and programs to more graphically depict and analyze accident scenarios). An increase in recurrent training courses and seminars for staff, as well as additional clerical/administrative support staff, would all result in a better safety return for the traveling public.

My colleagues and I help to promote the implementation of the Board's safety recommendations through speeches and personal contacts with the leaders of the various governmental agencies and private industry groups that are the recipients of our recommendations or that interrelate with the recipients of our recommendations.

5. The acceptance and implementation of Board recommendations varies from agency to agency. In your view, how successful has the Department of Transportation been in implementing the Board's safety recommendations during your tenure? Is there an agency within DOT that does a better job of implementing the Board's recommendations than others?

Response: There have been two areas in which the safety recommendation process has recently improved significantly. The average number of days to close recommendations based on acceptable action from all DOT agencies has declined from 848 days in calendar year 1985 to 319 days in calendar 1986 and to 186 days in calendar year 1987. Additionally, the average number of days to receipt of the first substantive response of Safety Board recommendations has likewise improved. In calendar 1986, the response time for all DOT agencies averaged 124 days, and in calendar year 1987, that time period was reduced to an average of 70 days. In discussing this issue with staff members, it appears that, particularly within the last year, there has been a heightened awareness in the Secretary's Office of the desirability of responding on a more timely basis to NTSB recommendations, and a representative from the Secretary's Office is currently receiving and monitoring all recommendations issued from the Safety Board to DOT agencies. Traditionally, the Federal Aviation Administration (FAA) has been the agency which receives the largest number of recommendations from the Safety Board, and consequentially its response time has been more timely. Generally, the FAA has had a better than average rate of acceptance of the Safety Board's recommendations. Of all DOT agencies, the FAA, U.S. Coast Guard and Federal Highway Administration seem to have the best organizations for receiving, analyzing and responding to recommendations. In those three agencies, at least one or more employee(s) devotes substantially all of his/her time to responding to recommendations.

Listed below is each DOT agency and percentage of acceptance of NTSB recommendations:

DOT (SEC.)	85%
FAA	78%
FHWA	86%
FRA	65%
MARAD	100%
NHTSA	73%
RSPA	78%
UMTA	59%
USCG	75%
Average	77%

The three agencies whose acceptance rates are disappointingly low are UMTA at 59%, FRA at 65%, and NHTSA at 73%.

6. Private transportation accident investigators continue to express frustration at being barred from NTSB investigations. Do you think there is a need for the Board to reassess its position with respect to excluding these individuals?

Response: There was a considerable amount of debate during 1985 and 1986 about access of private investigators and consultants to NTSB investigations. Based upon my experience in the last two years, I do not feel the Board should reassess its position of excluding these individuals. The party system as it currently exists works reasonably well in assuring a thorough and objective investigation. It is not a perfect system. However, to attempt to expand the number of participants in the investigations would burden staff and require increased notice and coordination of the investigative activities with other parties without a commensurate improvement in the quality of the investigation. Another, perhaps more important issue is that the Board must in actuality and in perception not engage itself in litigation-like inquiries. The authors of NTSB's enabling legislation wisely directed that the NTSB should not entangle itself in litigation. The presence of consultants and private investigators typically is for litigation purposes and their involvement in the investigations would lend the impression to the public that the NTSB is, or may be, involved in litigation or quasi-litigation activities. Such a perception would pose a significant detriment to the Board's ability to acquire information.

Drug and Alcohol Testing

7. At your confirmation hearing in 1986, you stated that you were not prepared to comment on the need for legislation to require drug and alcohol testing programs within the transportation industry. Given what you have learned since that time, do you think there is a need for mandatory testing programs? In your view, is random testing needed to ensure deterrence from drug and alcohol abuse by employees in transportation industries?

Response: I believe there is a need for legislative or regulatory authority to require drug and alcohol testing programs within the transportation industry. Based upon my experience at the Safety Board and given the Safety Board's history of recommendations in this field, I am supportive of the Safety Board's position on mandatory testing after certain incidents or accidents and our position on random testing.

Before discussing our policy, I want to state that I personally, and the Safety Board as well, strongly support educational and rehabilitative programs in all transportation modes. We are on record supporting employee assistance programs and other programs which identify and provide treatment and rehabilitation for employees with alcohol or drug problems.

With regard to mandatory testing, I agree with the Board's position that in general, the FRA rule, with appropriate modifications, should serve as the model approach for Federal regulation to reduce and prevent alcohol and drug use in the transportation industry. That rule in general provides that the occurrence itself of a reportable accident or incident is the basis for requesting drug and alcohol testing in order to determine whether drugs and

alcohol were or were not involved in the particular accident or incident. The persons who would come within the scope of testing would be those whose actions bear a reasonable relationship to the cause of the accident/incident. For example, such a policy would allow the NTSB to request and obtain samples of operating personnel on the accident vehicle, other operational personnel such as air traffic controllers, dispatchers, etc., and personnel whose duties may relate to emergency evacuation and other post accident activities, such as flight attendants, conductors and shipboard crewmen. In addition to post accident/incident testing, it is my opinion that the use of pre-employment testing, testing for "reasonable cause," and testing in conjunction with periodically required medical examination is a reasonable approach. It is also an approach which appears to be working, particularly among some of the railroad companies. Equity of application and timeliness of sample collection and analysis are important elements in any successful toxicological testing program relating to accident investigations.

Regarding random testing, it is my view that if the Safety Board's request for post-accident/incident testing, pre-employment testing, testing for "reasonable cause," and testing in conjunction with periodically required medical examinations is accepted and supported by government and the industry, random testing would not offer any significantly greater safety benefit. Counterproductive employee morale factors, coupled with unresolved constitutional issues, further complicate random testing proposals. I would support a provision to allow testing on a random basis of an employee who is enrolled in a rehabilitative program.

Hazardous Materials Training

8. Another area which you stated needed special attention is the "training and regulation of truck drivers carrying hazardous materials." Do you have any specific ideas as to what should be done to increase the safety of hazardous materials transportation, specifically with respect to training and Federal regulations?

Response: To illustrate the special attention needed in the training and regulation of truck drivers carrying hazardous materials, I would cite an April 1987 accident at Laurenceville, New Jersey. A tractor-trailer carrying 8,000 gallons of butane overturned on a highway interchange. A white vapor cloud formed, then ignited and engulfed the area in a fireball. Seven people were injured, two critically. The truck driver had no experience driving that type of truck. At the time of the accident he had a suspended license. His license also had been suspended twice before. His driving record in Florida showed twelve convictions for moving violations. This type of record reflects a total disregard for safety on the highway, and yet it is not an isolated incident. Unfortunately, the Safety Board sees this type of driver all too often.

I support legislative and regulatory efforts establishing comprehensive mandatory training requirements, licensing and demonstrated driving ability for the drivers of all trucks transporting hazardous materials. Specifically, I support establishment of stringent criteria for the selection and disqualification of these drivers. I also favor a national routing plan for hazardous materials, taking into consideration highly populated areas and high risk highways.

In addition, I support an apprenticeship training program for commercial truck drivers and a comprehensive standardized training curricula for truck driver training schools.

Finally, it is critical that drivers are required to be trained to identify , following an accident, the hazards of their cargo and its properties and to be able to inform emergency response personnel accurately of the hazardous properties of the cargo.

The commitment of DOT to these goals, now that we have legislation mandating a national one license only for truckers, should result in significant safety benefits on the American highways. I look forward to the early final implementation, by FHWA, of a rule containing the licensing attributes I have set forth.

Deregulation and Safety

9. Also, in 1986, you stated that "the Board should exert more of its concern for the effects of deregulation on safety policy and practices." During the past two years, what steps have you taken to accomplish this objective? Do you continue to believe that this is an area in need of increased attention by the Board? If so, what would you propose be undertaken?

Response: I believe the Board should continue to be alert to any signs of detrimental effects of deregulation on safety policies and practices. I would like to point out that even though many of my comments will be directly related to the airline industry, they are applicable to any transportation mode which undergoes rapid expansion and growth.

For the airline industry, deregulation has served to raise the levels of competition both in the economic and service areas. In order to meet the increased competitive nature of the environment, the airlines have chosen to increase their service levels while at the same time to be more mindful of the overall economic effect on their operation. It is sometimes difficult to establish a direct relationship between safety and economic return, however. This atmosphere has the potential for diminishing the emphasis on safety to a disproportionate level.

During my tenure with the Board I have been active and supportive of recommendations which address improvements in such areas as initial hiring qualifications, employee and management training, pairing of experienced individuals, standardization of tasks, a safety department's relationship in the overall operation, and managerial philosophy and oversight.

One area in which I have been particularly interested is the experience level of flight crews in commercial passenger carrying aircraft. The issue can be divided into two basic categories. One is the experience level of newly hired pilots. The second is the relative experience level of flightcrew members in their respective roles as the result of a promotion or an airline merger.

The rapid expansion of several airlines has led to an unprecedented need for pilots. Along with the increased hiring opportunities has come an overall decline in the average experience level of pilots as new-hires, as first officers, and as captains. I am concerned that the average experience level on the flight deck of today's U.S. commercial airliner may have fallen considerably over the past few years. I am also concerned that the situation may worsen with the retirement of a large number of captains within the next few years as they reach the mandatory retirement age of 60. There is a very positive safety benefit to be derived from experience and we may be losing that.

One possible amelioration in the erosion of pilot experience may be found through careful consideration of extending the age 60 mandatory retirement age by two years to age 62. In this way many of the pilots who are now flying as first officers will have the benefit of flying with a well experienced aviator for an additional period of time. Thus, when they move into the captain's seat, they too will be more experienced. I hasten to add that any extension of the 60 retirement age should include sufficient safeguards on the physical well being of those individuals. Perhaps the Federal Aviation Administration could look into requiring a first class physical for airline pilots more often beyond age 60.

Finally, I note with concern the movement toward longer flight and duty time of flight crews in the deregulated environment. This is particularly evident on international flights where crews find themselves trying to remain alert while fighting the effects of long trip segments and widely differing time zones. In an effort to increase productivity and efficiency carriers are inching closer to the FAA regulatory maximums. These maximums have rarely been approached in actual operations. We have received reports of instances of flight crew members falling asleep on the flight deck. I am concerned about factors of fatigue which may be creeping into the daily operation of air carrier aircraft.

I believe these are areas to which we must give full and careful consideration.

Airspace Restrictions

10. Last year, Chairman Burnett expressed concern that the air traffic control system was reaching the saturation point and that restrictions might have to be considered during the short-term to ensure air safety. What was your view of this proposal? Do you think the air traffic control system is currently overload?

Response: My position on restrictions for air traffic control operations must necessarily take the side of safety. I support the Safety Board's recommendations that FAA ensure that the air traffic control system does not fail to perform its primary function of collision avoidance. Whenever conditions exist within the air traffic control system that have the potential for exceeding its capacity the response must be proactive rather than reactive. Air traffic restrictions are for the most part reactive and are only one way of maintaining system safety.

In the broad sense I do not think of the air traffic control system nor the airspace as being overloaded. My observations as a pilot and as an occasional "jump seat" rider on commercial flights is that there are air traffic control facilities at some geographic locations that become strained by the volume of aircraft participating in their sectors of the system during a particular period. The demand for air traffic services nears or meets the capacity of those services. I would like to point out that non-participating aircraft do not, for the most part, add to the controller's workload. It is aircraft operating within the air traffic control system that have the potential for overloading the air traffic controller.

The answers to system overloading are difficult, but not elusive. One example is that at many airports the FAA uses performance standards which take into account only the physical ability of the airport configuration, the concrete, to establish capacity. The Board has recommended that the FAA measure air traffic control system capacity in terms of the air traffic controller's ability to handle a given number of aircraft. In this way a more realistic number of aircraft could be used when determining airport capacity and the potential for overloading the controller identified at an earlier time.

The FAA is charged with a difficult task in managing the airspace, but if we are to maintain safety and improve the capacity of the nation's air traffic control system by any significant amount we must approach the use of airspace, airports, and procedures through an integrated and national plan. The air traffic control system must be compatible with the needs of all users.

Structure of FAA

11. There is concern by many that the Federal Aviation Administration is unable to adequately ensure aviation safety because of its relationship with DOT. In light of your experiences, would you agree with this assessment? In your opinion, how would aviation safety be affected if the FAA were removed from DOT or the air traffic control system transferred to a public corporation?

Response: The FAA has a monumental task to accomplish. During a period of constrained budgets and rapid aviation growth the FAA has come under increased criticism for its performance. It is my belief that the FAA is able to adequately ensure aviation safety and still maintain its position as a DOT agency. Whereas the relationship with DOT has been seen at times to clash with the FAA's safety mission, DOT also offers the necessary ability to integrate the mission of the FAA into a national transportation program.

The importance of a coordinated, compatible transportation system cannot be over emphasized. Under the umbrella of DOT the public's needs can be consolidated and integrated into a plan which will result in greater overall efficiency and safety while minimizing the impact of such issues as land use, surface access, environment, and cost. I am in favor of retaining FAA within the DOT.

I see removing the FAA from DOT as having less of an impact on aviation safety than would establishing the air traffic control system as a public corporation. I believe the Federal government influence is needed to assure

compatibility and integration of our nationwide transportation system. I believe that safety needs to be applied in a balanced manner systemwide. Any incompatability or inconsistency in the transportation system can degrade safety for not only in one portion of the system, but has the potential for a domino effect on the rest of the system. I believe the FAA and the air traffic control system must remain integrated into the much larger network of transportation systems in the U.S.

Rail Safety

12. The collision on January 4, 1987 between an Amtrak train and three Conrail locomotives received considerable attention, since it resulted in 16 deaths and over 170 injuries. Please comment on the responses to this accident by the Federal Railroad Administration, Amtrak, and Conrail, particularly as they relate to automatic train controls and the principal recommendations of the NTSB following its investigations into the causes of the January 4 accident.

Response: Within eleven days after the January 4, 1987 tragedy, the Safety Board issued three interim recommendations to Amtrak: require all trains operating on the Northeast Corridor (NEC) to be equipped with a safety backup device that automatically controls the train as required by signals if the engineer fails to do so; pending such installation, all non-equipped trains should stop and receive permission before entering high speed tracks on the NEC; and that operable two-way radios be installed on all NEC trains for train-to-dispatch and train-to-train capability.

Amtrak notified the Safety Board on April 7, 1987 that it agreed with the intent of the first recommendation for automatic train controls (ATC) on the NEC and that Amtrak had begun negotiations with other railroads using the NEC for the installation of the device on their equipment. Amtrak disagreed with the second recommendation and asserted that such a rule would be ineffective because operating personnel would just as likely disobey this rule as they would disobey the rule to stop at signals displaying stop aspects. Amtrak also claimed compliance would unduly restrict movements. The Safety Board has determined that this response is unacceptable, and I support the Safety Board's position. This interim measure would create a redundant safety backup by alerting and reminding the crews of the potential conflict with high speed operations on the tracks onto which they would be moving. The practice would also serve as a reminder to dispatch of the position of the converging train.

Regarding the third recommendation, Amtrak agreed that two-way radio communications should be installed on all NEC trains and, therefore, the Safety Board classified the status of this recommendation as "Open-Acceptable Action."

On May 20, 1987 the Federal Railroad Administration (FRA) proposed to issue an order that all trains operating on the NEC between Washington and Boston be equipped with ATC. This proposal was adopted under FRA Order Docket 87-2 on November 19, 1987, and requires that all locomotives and self-propelled cars on the NEC be equipped with ATC by January 1, 1990.

Amtrak advised in December 1987 that installation on the first non-equipped unit was completed in November 1987, that commuter rails had appropriated funds and that Conrail was beginning to test prototype ATC systems for freight trains. Amtrak also noted that its trains between Philadelphia and Harrisburg are equipped with ATC and that it would work with freight and commuter railroads if FRA extended its order.

The Safety Board strongly supports the extension of the FRA Order to cover operations not only from Philadelphia to Harrisburg, but to all connecting NEC railroad lines as well.

I support the Safety Board's position and believe that extending the requirement for ATC on other rail lines where passenger traffic is heavy would be beneficial. The Safety Board has suggested to FRA that the following NEC connecting lines be included in its order: Philadelphia to Harrisburg, New Haven to Springfield, Philadelphia to Atlantic City and New York to Albany.

The Safety Board issued four recommendations to Conrail in its final accident report on Chase, Maryland, adopted in January 1988, to expedite installation of ATC, improve methods of identifying employees who abuse alcohol or drugs, modify its locomotives so as to prohibit disabling of safety backups and improve procedures for inspecting backup devices. No response has yet been received from Conrail.

The Safety Board also issued nine recommendations to Amtrak in the January 1988 final report, but no response has been received to date. These recommendations cover improved dispatch procedures, speed restriction interpretations, evaluation of Amtrak's safety program, speed and signal compliance tests, work trains, color-coded signals and emergency preparedness.

The Safety Board issued a recommendation to the Federal Railroad Administration to improve its oversight of Amtrak's operating practices, supervisory efficiency checks and compliance with Federal safety regulations. The Safety Board also reiterated an earlier recommendation to the FRA to expedite the studies of the interior design of passenger cars and publish guidelines for improvements.

Pipeline Safety

13. Please comment on the activities of the Research and Special Programs Administration insofar as it has responded to Safety Board recommendations arising out of the NTSB investigation into the 1986 pipeline accident in Mounds View, Minnesota. Do you have any comments as to the general adequacy of Federal and State natural gas and hazardous material pipeline safety inspection programs?

Response: In response to the Safety Board's recommendations following the Mounds View, Minnesota pipeline accident, the Research and Special Programs Administration has formally acknowledged receipt of those recommendations and has indicated only that they would be considered. Obviously, the Safety Board had hoped for a more positive response by now. I would encourage RSPA to move forward on our recommendations and take a more aggressive role toward pipeline safety.

With regard to the adequacy of Federal and state pipeline safety inspection programs, I have several comments. Standards for the inspection of pipelines are established by the Department of Transportation's Office of Pipeline Safety. For intrastate pipeline facilities, individual states may certify to the DOT that it has adopted the Federal rules as a minimum, that it has a program for the inspection of pipeline facilities, and its enforcement powers are equivalent to those of DOT. Operating under DOT certification, the state serves as the primary regulator and inspector of such facilities and may impose more stringent regulations than those required by Federal law. This program has proved very successful as 49 of the 50 states participate in the inspection and regulation of their intrastate facilities.

The picture for interstate facilities, however, is dramatically different. The states take little part in the inspection of interstate facilities and, in the case of natural gas, do not have a program available to them which would allow them to be included in those inspections. It is important that I clarify the situation by adding that, at the time DOT promulgated Federal regulations for interstate natural gas facilities, there were 13 states which were "grandfathered" as approved inspection agents. That number now remains at 11 as two have opted to withdraw from the program. Incredibly, there is no DOT program which would allow any state wishing to serve as an interstate natural gas inspection agent to do so. This is a circumstance that I believe is in need of immediate attention by DOT.

In the Mounds View, Minnesota accident report, the Safety Board took the position that the number of OPS inspectors was inadequate to effectively inspect pipeline operators on a regular basis. The OPS has been relying primarily on voluntary compliance with the Federal regulations and providing very little oversight of the pipeline industry. This also results in the OPS being reactive rather than proactive in identifying problems within a pipeline system.

But the lack of thoroughness in OPS inspections is not the only problem. There appears to have been a tendency on the part of OPS not to pursue an active enforcement and sanctioning policy when circumstances warrant. Again, in the Mounds View accident, this became all too clear. OPS inspections had failed to examine the pipeline company's cathodic protection program which records showed had been operating substandard for several years. In addition, OPS was aware that 12 of the 17 inspections that were conducted on various parts of the company had uncovered violations. In those cases, warning letters, the lowest level of enforcement action, was the primary action taken by OPS, even though a civil penalty had been issued (for WPL's failure to report an accident) which criticized the company's history of compliance. So we have here a case of the OPS being less than aggressive and thorough in providing the public with the safety oversight it deserves.

Therefore, it is my belief that an active and aggressive effort needs to be made by DOT to increase the participation of individual states in the inspection of both liquid and natural gas interstate pipeline facilities. Also, I believe that OPS should become more aggressive in its use of sanctions against operators which have a history of noncompliance.

STATEMENT OF JOSEPH T. NALL

Mr. NALL. Thank you, Mr. Chairman. I do have some brief remarks, Senator.

Thank you for this opportunity to appear before the Committee for the second time. It is an honor to have been nominated by the President for continued public service as a member of the National Transportation Safety Board.

For nearly two years I have been very fortunate in being associated with such a deeply motivated, highly competent and committed organization as the Safety Board. As the Federal watchdog of transportation safety, the Safety Board, through each career professional and Board member, has a unique opportunity to effect creative change and improvement in America's transportation systems. Our work is demanding and sometimes controversial. However, it is extremely rewarding. I am eager to continue to participate in the challenge to improve transportation safety.

We have completed many noteworthy safety initiatives in the last two years. Along with the thorough consideration and adoption of numerous accident reports in all modes of transportation, we have also completed several significant safety studies. These accomplishments are well known to members of this Committee, so, with your indulgence, I will not itemize them here. I appreciate the detailed and comprehensive prehearing questions that have allowed me an opportunity to address in writing what I believe are the most critical issues challenging the Safety Board, and I compliment your staff on the breadth and quality of those questions.

I am also gratified to have been associated with other members of the transportation community, the broader community than just the Safety Board, without whose expertise and resources the Safety Board's efforts would be severely curtailed. That nearly 80 percent of the Safety Board's recommendations are implemented by private industry and government reflects positively on the commitment of America's transportation leadership to safety. Our work is never done, however, and if reconfirmed I look forward to a full term within which to participate in the Safety Board's exciting mission.

Finally, I would like to thank this Committee for your continued interest and support of the Safety Board. This concludes my introductory statement and, of course, I will be glad to answer questions.

Senator FORD. I guess you are looking at the questioner, at least for a while, and I have only one or two questions I might ask, Mr. Nall, based on your very detailed and extensive prehearing comments.

You talked about air traffic control system capacity. The Board has recommended that the FAA measure the capacity of the air traffic control system in terms of a controller's ability to handle a given number of aircraft rather than just physical capacity at the airport. In your opinion, why has the FAA not taken this approach?

Mr. NALL. Senator, I think one of the reasons may be that it is a difficult area to measure. When you look at a sector within itself it is a dynamic item. That sector consists of a large geographic area or smaller geographic area, depending on the pattern of flow. At

various times of the day the controller may be overloaded; at other times he may be handling the same number of targets and not be overloaded. It is a function of weather. It is a function of the type of traffic, the experience level of the pilots, and the like.

So I think probably because it has been a difficult item to quantify the FAA apparently has not seen it necessary and has not had a way of studying it. I think that perhaps another reason is that the system capacity, in terms of the airports themselves that are now used, has worked well in the past and it has probably been a philosophy that if it has not been broken there is no need to fix it.

I think the time has come, though, to look at the controllers' capacity, to look at the human factors side of it, to mesh the controller experience level with the amount of traffic that he or she is controlling, and certainly to increase the number of full performance level controllers, within the realm of budget restraints.

Senator FORD. You talked about and we have discussed pilot experience. You stated that the Board is concerned with the experience level of newly hired commercial pilots. What should the FAA be doing to ensure the hiring of qualified flight crew personnel, and should the minimum standards be increased?

Mr. NALL. Senator, I think the Air Line Pilots Association has begun some initiatives looking at this area. The FAA has been concerned about it, but not as aggressively concerned as I personally would like to see and as I think the Board would like to see.

The biggest concern that we have is in the area of commuter carriers. I think the experience levels there are significantly different from what we were seeing five years ago. Particularly, I would like to see a more aggressive study of commuter pilots, of the level of experience, of the quality of that experience, not just in terms of hours but the type of equipment they have been flying.

Some of the commuter pilots that you see hired may have 1,500 hours, which is the minimum that most are hiring at—1,500 to 2,000 hours. Much of that time may have been as a right-seat instructor in a Cessna 150. While it counts as total time, it causes us concern that that time may not be quite analogous to the kind of flying that they will be engaged in.

I think we would support FAA initiatives attempting to measure and quantify the levels of flight experience. I was pleased, in the aftermath of the Stapleton accident, that Administrator McArtor, who is here today on another matter, did, through his flight standards office actually increase the type of experience to 100 hours that would be required in a similar situation to the unfortunate Denver Continental accident.

That is a step in the right direction. It looks at basic crew pairing and minimum kinds of standards. I think we do support initiatives in the area to try to quantify and measure the human factors effects of experience. Again, that is not an easy area, but I think it is one that we have the resources to commit to and should do.

Senator FORD. I can give you an easy question on the end of that one. You can just answer it yes or no. Should the minimum standards be increased? You suggested 100 hours. You know, you can give me a lot of verbiage and that sort of thing and go around the barn, but should the minimum standards be increased?

Mr. NALL. The 100 hours is part of a recent statement by the Administrator simply to increase to 100 hours—a captain cannot let a first officer make the takeoff until that 100-hour minimum has been met.

What I thought you were referring to had to do with the 1,500 hours. I do not think there is anything inherently wrong with the 1,500-hour minimum for an air transport rating. I do not think that is a problem.

Senator FORD. You said that with a large number of commercial pilots nearing retirement the FAA may want to consider extending the mandatory retirement age by a couple of years, and that makes them 62.

Do you believe this is an acceptable safety risk?

Mr. NALL. I do, particularly given the kinds and quality of the medical examinations that they undergo or would be required to undergo. I think it is an idea that ought to be looked at now. We have not looked at those issues in a few years, and I think that would relieve us, give us more experienced pilots at least two years beyond the retirement age of some.

Senator FORD. I think I am awful good, but I do not think you want me up front, and I am 63. So something bothers me about that.

You said that if other tests for drug and alcohol abuse were used mandatory random testing would be unnecessary and probably counter-productive. Would you elaborate, especially in light of what you have seen at the Chase, Maryland, and Chester, Pennsylvania rail accidents, where drug use by rail employees has been identified?

Mr. NALL. I think if there is a comprehensive alcohol testing program similar to what the FRA has in place now there would not be a need for random testing. In other words, with pre-employment testing, with testing as medicals are given, testing for reasonable cause, and testing after accidents and incidents, I think that will give us the kind of safeguards that we need.

Random testing has a significant morale impact. It has some constitutional problems, as the Senator is well aware, and I think, given a full, comprehensive program that includes the other elements, I do not think random testing gives us that much of an advantage, Senator Ford.

Senator FORD. You made a speech not too long ago, I guess, to the Air Line Pilots Association. You discussed the need for increased attention to wind shear and the critical need for increased detection capability. How would you judge FAA's progress in this area and what other actions must be taken to ensure a better record with respect to weather and aviation safety?

Mr. NALL. I think the FAA has moved with some dispatch in the doppler radar area. That is a ground-based system that is a very complex algorithmic system. It is probably going to slip some. I would like to see them hold to their original deadlines.

Where I think the FAA could increase their efforts is in the airborne guidance systems and foster the development and implementation of airborne systems. In other words, we have the capability in computerized equipment now aboard aircraft to give the flight crew significantly more information than they have had in the past

to tell them of the effects of adverse winds or wind shear and actually give them information that would allow them to fly out of it.

So I think that is an area that needs close attention—there is a rulemaking in process right now. I think that is an emphasis that would give the pilots more real-time information and that would give us a significant safety advantage in the wind shear type accident.

Senator FORD. You discussed in the prehearing questions the issue of NTSB staffing. You stated in the prehearing questions that the Safety Board had suffered severe reductions in manpower and financial resources during the past seven years.

If funding levels were increased, what initiatives would you and the rest of the Board undertake that are now impossible?

Mr. NALL. Number one is volume of employees. We need more employees. Secondly, we see that the development of computer graphics, computer programs, would be a significant improvement. We have a very limited staff of computer specialists. This is an area that would help us graphically depict what is happening in an accident and accident dynamics.

We need recurrent training classes and seminars for our staff. We regularly sit in judgment on various other transportation entities for failure to train their people, and sometimes I feel that we need to give our own people more in the way of recurrent training courses.

Finally, additional clerical and administrative support staff. I sometimes kid our people and tell them we have the highest paid typists in government. We have got GS–13s and 14s who are often responsible for typing their own reports at their own computer terminals.

Again, those are illustrations of where I think we can see some improvement. The other areas are set forth in the answers.

Senator FORD. Fine. Thank you, Mr. Nall. We now have your cleanup hitter here, and we are pleased to recognize the distinguished Senator from North Carolina, Mr. Sanford.

STATEMENT OF HON. TERRY SANFORD, U.S. SENATOR FROM NORTH CAROLINA

Senator SANFORD. Thank you very much, Mr. Chairman. I apologize for being late, but you know sometimes you get caught and pulled in different directions.

I wanted to come and say a good word for Joseph Nall so you would let him testify, but apparently it was not necessary. You let him anyhow. I would like to enter into the record all of these highly complimentary things I have to say about him, because certainly I think he is an outstanding candidate for this particular job, uniquely qualified, and certainly is one of North Carolina's outstanding citizens.

Mr. Chairman, it is an honor for me to address the committee today in support of Joseph T. Nall's renomination as a member of the NTSB.

A graduate of Wake Forest University School of Law in Winston-Salem, North Carolina, Joe Nall currently practices law in Smithfield, North Carolina.

Joe has been a member of the NTSB since April 1986. He has served the Board with distinction through his high degree of professionalism as an on-scene investigator of an Amtrak passenger train derailment in Fall River, Wisconsin. He was also the Board Member on scene for the investigation of the January 1987 collision of a high-speed Amtrak passenger train with three Conrail locomotives in Chase, Maryland.

Joe has an extensive knowledge of commercial aviation as an active pilot and a holder of commercial, instrument and ground instructor ratings. His hands-on experience is complemented by his legal expertise in civil aviation matters. This is further complemented by his legal work involving civil surface transportation accident cases. He has authored a number of aviation articles for publication in trade journals.

As an active participant in civic matters, Joe has served as chairman and director of the Johnston County Board of Social Services and president of the Greater Smithfield-Selma Area Chamber of Commerce. He is also a past president and campaign chairman of the United Way of Johnston County, North Carolina.

Mr. Chairman and Members of the committee, the Nation will benefit greatly from being able to continue to receive the high degree of professionalism Joe Nall has given in the past and profit from his experience as a reappointed member of the NTSB. Thank you.

I am pleased to be here to add my word of recommendation.

Senator FORD. I thank you very much, Senator.

I have no further questions of Mr. Nall. It is obvious that everybody else thinks that you are going to breeze right on through and they are going to leave it all up to me. If it is up to me, we will see you at your confirmation.

Thank you, Mr. Nall.

Mr. NALL. Thank you very much, Senator Ford.

[Whereupon, at 2:00 p.m., the hearing adjourned.]

84-221 - 88 - 4

BARBARA McCONNELL BARRETT, TO BE DEPUTY ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION

WEDNESDAY, MARCH 23, 1988

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The committee met at 9 a.m. in room SR-253, Russell Senate Office Building, Hon. Wendell Ford presiding.

Staff members assigned to this hearing: Steve Palmer, senior professional staff member and Macky Ayers, minority professional staff member.

OPENING STATEMENT BY SENATOR FORD

Senator FORD. This morning we begin with a hearing to consider the nomination of Barbara McConnell Barrett to be Deputy Administrator of the Federal Aviation Administration.

For the past three years, Ms. Barrett has been a partner at the Phoenix, Arizona law firm of Evans, Kitchel & Jenckes, where she has specialized in legislation and international law. Prior to that, Ms. Barrett served for 16 months as a Member of the Civil Aeronautics Board, until the Board was sunset on December 31, 1984, as the last phase of airline deregulation.

Ms. Barrett's experience at the CAB also included her work from 1982 to 1983 as Executive Assistant to Chairman Dan McKinnon. Prior to coming to Washington in 1982, Ms. Barrett worked as an attorney for Southwest Forest Industries and the Greyhound Corporation—both in Phoenix, Arizona.

In addition to her work experience, Ms. Barrett has strong academic credentials, having earned a Bachelor of Science, a Masters of Public Administration, and a Juris Doctor—all from Arizona State University.

I am pleased to be chairing today's hearing. The position of Deputy Administrator of the FAA has been vacant far too long—since July 15, 1986. Administrator McArtor is doing his best to cope alone, but an agency as large, decentralized, and dynamic as the FAA needs a strong Deputy Administrator—someone who can manage the agency on a day-to-day basis.

Ms. Barrett comes to the Committee with high recommendations. I hope that, if all goes well, she will shortly join Administrator McArtor at the FAA.

It takes a little bit of intestinal fortitude to take on this job for what may be just a short period of time.

So with that, I am going to call on the senior Senator from Arizona, Dennis DeConcini, to make a statement at this time.

STATEMENT OF HON. DENNIS DECONCINI, U.S. SENATOR FROM ARIZONA

Senator DECONCINI. Mr. Chairman, thank you very much. I wish your voice would come back because it is missed from the Senate floor.

Senator FORD. I want you to feel sorry for me.

The thing I want to ask about this—Barbara has all of her degrees, even her Juris Doctorate, from Arizona State. Is that the team that is now number one in the country or is it the other one?

Senator DECONCINI. I am sorry, Mr. Chairman. It is the other one.

Once you run for statewide office in Arizona, you realize there are three great universities in the State.

Senator FORD. I understand. But I am from Kentucky and I am interested in basketball.

Senator DECONCINI. I would be glad to make you a wager on that, by the way, after this confirmation, of course.

Senator MCCAIN. That is the school that will probably have an opportunity to defeat Kentucky, Mr. Chairman.

Senator FORD. Well, everybody has an opportunity because everybody wants us, you know. We almost had three teams in the final 16.

Senator DECONCINI. We are trying to emulate Kentucky and be a basketball power. We are doing the best we can.

Senator FORD. We use your citrus to mix with what we make, so you keep it up.

Senator DECONCINI. It is a joy, Mr. Chairman, to be here to introduce Barbara Barrett along with my colleague Senator McCain, who is on this committee, and also Congressman Kyl, who is a personal friend and a great Congressman for his district in Arizona. And I believe Barbara lives in that district.

As you mentioned, Barbara is a graduate of Arizona State University, both the law school the business school where she received her master's degree and her undergraduate degree. She has all the qualifications.

I was very pleased in 1983, Mr. Chairman, to be here before this committee to recommend her nomination as a CAB commissioner. She was confirmed by the Senate for that post and served exemplarily. She conducted herself not only professionally, but in a totally bipartisan fashion, looking after the charge of that very important commission.

She is a practicing lawyer. She found time to be the associate general counsel of one of the large paper companies and lumber companies in Arizona, Southwest Forest Products. She has been the corporate counsel for one of the major Fortune 500 corporations, the Greyhound Corporation.

She is married and has a family. She believes in public service and is not at all shy to step forward and take it.

The reason I am here, Mr. Chairman, is because I wanted to impress upon not only the committee here, but on all our colleagues in the Senate, that to find the caliber of Barbara Barrett to be here to take this job is something that we need to applaud, and we need to thank her, quite frankly.

This is a difficult position, as you on this committee know better than anyone else. And public service is not what it is all cracked up to be. It seems like these days there are plenty of people who want it, but the quality of those people is what is really important.

And here we have the highest quality individual willing to take on public service, and I commend her to you for your quick passage and approval in recommending her to the full Senate.

Thank you, Mr. Chairman.

Senator FORD. Senator McCain.

OPENING STATEMENT BY SENATOR McCAIN

Senator MCCAIN. Thank you, Mr. Chairman. And I am also sorry to hear about your voice. I would be more than happy——

Senator FORD. Let us not get more sympathy. You guys can quit.

Senator MCCAIN. I would be more than happy to take over the subcommittee until it returns.

Senator FORD. John, the only way you will get it is to beat me.

Senator MCCAIN. That is not possible.

Thank you, Mr. Chairman, for allowing my distinguished colleague, the senior Senator from Arizona, Senator DeConcini, and my good friend Congressman John Kyl to appear before you along with me on behalf of the nomination of Barbara McConnell Barrett.

There is very little I can add to the very eloquent words that my colleague Senator DeConcini just said. Let me just say that I think that Barbara McConnell Barrett follows in a long line of outstanding service of women from Arizona, women like Sandra Day O'Connor, who has contributed enormously to our state and our nation.

I also would like to echo the words of Dennis DeConcini when he said that it is fortunate that we have someone like Barbara who is willing to serve. We all are aware that she will take a significant cut in income and leave a very comfortable lifestyle in the state of Arizona to come here and serve.

As you suggest, Mr. Chairman, and as you know far better than I, this is a time of great challenge for the Federal Aviation Agency. There is enormous issues which face the FAA, which I believe are of the most serious impact and consequence for the safety of Americans who fly on airliners. And the decisions that will be made in the next few months, and indeed the rest of this year, will be crucial to the future of aviation in America.

And I feel that Barbara McConnell Barrett, with her extensive background and previous service involvement in these issues, will contribute enormously as we address these issues. I look forward to working with her and with you in the months ahead.

And thank you, Mr. Chairman.

Senator FORD. Congressman.

STATEMENT OF HON. JOHN KYL, U.S. REPRESENTATIVE FROM ARIZONA

Mr. KYL. Thank you very much, Mr. Chairman. It is an honor for me to be here with you today and to be with the two great Senators from the state of Arizona.

My appearance before you today is no mere pro forma introduction of a constituent, I can assure you. It is really a personal pleasure for me to present to you a very close friend, Barbara McConnell Barrett, who has been nominated by the President to serve as Deputy Administrator for the Federal Aviation Administration.

I have known Barbara for many years. She is a unique individual, highly experienced, gracious, energetic, and very eager to serve her government again. Barbara has been a tireless civic leader in Phoenix, compiling a staggering record of achievement during the last decade. She is a corporate lawyer by profession, but also holds a master's degree in public administration, and she has a long history of public service at the state, local, and the national level.

Barbara previously served with this administration as a member of the Civil Aeronautics Board, including over a year as the vice chairman. Earlier, she had been a member of the Phoenix Municipal Aeronautics Advisory Board, which oversees the operation of Phoenix Sky Harbor Airport and two satellite general aviation airports.

In addition to aviation-related activities, Barbara has a record of service in the field of international trade. She has been an active member of the President's advisory committee on trade negotiations, a task force for GATT negotiations, Department of Commerce International Trade Administration, and the chairman of the Arizona district export council.

Naturally, Barbara has been recognized with many honors and awards, both in Arizona and at the national level. By personal experience, Mr. Chairman, I can discuss Barbara McConnell Barrett's qualifications for a long time, and I would enjoy doing so.

But I am pleased that the people of her character and ability are willing to temporarily leave their home and their professional affiliations and even disrupt their personal lives to serve their government.

President Reagan has made an excellent choice in nominating Barbara McConnell Barrett, and I hope this committee will quickly confirm and support her confirmation.

Thank you, Mr. Chairman.

Senator FORD. Well, I assure you, Congressman, we will expedite this nomination.

Senator Kassebaum wanted to be here, but she had to attend the Foreign Relations markup of the INF treaty. And she has a statement in behalf of your nomination this morning. I will ask unanimous consent that this statement be put in the record along with your biographical sketch.

[The material referred to follows:]

OPENING STATEMENT BY SENATOR KASSEBAUM

Mr. Chairman, I would like to join in extending a warm welcome to Ms. Barrett, who comes before the Committee today as the President's nominee to be Deputy Ad-

ministrator of the Federal Aviation Administration. I believe this is an excellent nomination, and I am confident the Senate will act on it expeditiously.

When I served as Chairman of the Aviation Subcommittee, I had the privilege of working closely with Barbara in her capacity as Vice Chairman of the Civil Aeronautics Board. Her professionalism and expertise in the field of aviation, along with her wit and charm, made for a most enjoyable and successful working relationship.

Barbara was particularly instrumental in the successful implementation of the congressional CAB "sunset" mandate. The transition from regulation to deregulation in the airline industry was not an easy one. It was the professionalism with which the CAB undertook the task, that made the ultimate smooth transition possible. Barbara's leadership role in that effort is still appreciated.

Quite frankly, Mr. Chairman, at this late date I think we are very fortunate to receive a nominee of Barbara's caliber. her presence at the FAA will prove to be a tremendous asset—not only for the FAA—but for aviation in general. I have every confidence that she will be confirmed, and I look forward to working with her in her new capacity as FAA Deputy Administrator.

ERNEST F. HOLLINGS, SOUTH CAROLINA, CHAIRMAN
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ALLEN CREGG, MINORITY CHIEF OF STAFF

United States Senate

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

WASHINGTON, DC 20510-6125

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

(If more space is needed, please use attached REMARKS sheet)

A. BIOGRAPHICAL DATA

1. Name: BARRETT (Last) BARBARA (First) McCONNELL (Other)

Address: 4617 E. Ocotillo (Current residence)
Paradise Valley AZ 85253

Evans, Kitchel & Jenckes (Business)
2600 N. Central Avenue
Phoenix AZ 85004

2. Position to which nominated: Deputy Administrator, FAA

Date of nomination: March , 1988

3. Date of birth: 12 (month) 26 (day) 50 (year)

Place of birth: Indiana County PA

4. Marital status: Married

Full name of Spouse: Craig R. Barrett

5. Names and ages of children: N/A

Craig's Children:
Scott Barrett - 26
Dawn Barrett Flacks - 27

6. Education:

Institution	Dates attended	Degrees received	Dates of degrees
Arizona State University	8/68-6/72	B.S.	1972
" " "	9/72-12/75	M.P.A.	1975
" " "	8/75-6/78	J.D.	1978

7. Employment record: List all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

From	To	Name of employer	Address	Type of work
4/85	Present	Evans, Kitchel & Jenckes	Phoenix AZ	Law
5/82	1/85	Civil Aeronautics Board	Wash DC	Aviation Gov't
4/80	5/82	Southwest Forest Industry	Phoenix AZ	Paper/Lumber
8/76	4/80	Greyhound Corp	Phoenix AZ	

8. Government experience — List any experience in or direct association with Federal, State, or local governments including any advisory, consultative, honorary or other part-time service or positions.

'80-'82 - Member, Arizona District Export Council, Sec'y of Commerce appointment; '85-Present - Chairman, Arizona District Export Council; '85-'87 - Member, President's Advisory Committee on Trade Negotiations; '83-'85 - Member, Administrative Conference of the U.S.; '88 - Member, U.S. Small Business Adm. Arizona Regional Advisory Council; '80-'82 & '86-'88 - Member & Vice Chairman, Phoenix Aviation Board. Various other advisory boards at Federal, state, and local level.

9. Political affiliations activities: — List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last 10 years.

10 year Member, Trunk 'N Tusk; Arizona Republican Party Fundraiser; Contributions through the years to Senate candidates McCain, Goldwater, Daschle; Congressional candidates Kyl, Stump, Rhodes; Select Legislative candidates; Burt Barr for Governor; Member of Exec. Committee Arizona Republican Caucus; Cochairman Kyl for Congress Dinner Committee. Modest Arizona and National Republican Party financial support.

11. Honors and awards: — List all scholarships, fellowships, honorary degrees, honorary society memberships, and any other special recognitions for outstanding service or achievement.

President Reagan Appointment, Senate Confirmed, to U.S. Civil Aeronatuics Board; President Reagan Designation as Vice Chairman of the 5-member CAB; Distinguished Achievement Award, Arizona State University, College of Law, 1985; Commencement Speaker, Eureka College, 1984; Governor's Outstanding Performance Citation, Arizona State Government; Mentor Ronald W. Reagan Scholars, Washington DC & Phoenix; Outstanding Young Women of of America; Who's Who in American Politics; Who's Who of American Women; Woman of the Year, Arizona State University

12. Published writings: — List the titles, publishers, and dates of books, articles, reports, or other published materials you have written.

International Aviation: The Big Picture; Federal Bar Journal, Vol.32, No. 1, pp. 28-31, Jan. 1985.

Senator FORD. Barbara, we are delighted to have you here. After your statement, I will have a question or two. And then if John or any of the others have a question, we can do that, they can ask the questions.

We are not going to keep you very long. So you may proceed.

STATEMENT OF BARBARA McCONNELL BARRETT

Ms. BARRETT. Thank you, Mr. Chairman, members of the committee.

I do not have a formal prepared statement to present to the committee today, but I would like to say that I welcome the chance to appear before you to enable you to review my credentials and qualifications to serve as the Deputy Administrator of the Federal Aviation Administration.

I am deeply gratified that President Reagan has nominated me for this position of high trust. Much of my professional career has been associated with aviation. I look forward once again to the challenges, the opportunities, and the rewards of working in this dynamic field, which is so important to the vitality of our nation and of the world.

You have my assurance that, if confirmed, I will dedicate myself to the continued improvement of the safety of our air transportation system, and that I will work closely with members of this subcommittee in my efforts to do so.

Once again, I appreciate having the opportunity to appear before you today. I would be pleased to respond to any questions you may have at this time. And I thank very much Senators DeConcini and McCain, and Congressman Kyl for their kinds words.

Senator FORD. Thank you for your fine statement.

If you cannot understand my questions because of my voice, I will be glad to repeat them. But let us try a couple questions here, Barbara, this morning.

There should be some priorities at FAA, and when you are confirmed as Deputy Administrator you will be in a position to work with Administrator McArtor in shaping the FAA. What do you believe that the priorities at FAA should be as of today?

Ms. BARRETT. Mr. Chairman, I think there are three urgent priorities. We need to look at the current personnel and the current personnel systems and work to have a more flexible personnel system to meet the increasing challenges that lie ahead in aviation and the challenges that exist today.

Also there is an evident urgent need for procurement reform at the FAA. And finally, I think that use of new technology to make the airways safer and to make airports safer is urgently needed as well.

So I think that there are really three major priorities: procurement, better personnel flexibility, and enhanced capabilities that can be made available through technology.

Senator FORD. Secretary Burnley just gave authorization, I believe, to Administrator McArtor in procurement up to $150 million. Do you see a need for it to be larger than that or to have a free hand as an independent agency may have, with the trust fund available to the Administrator?

Ms. BARRETT. I think it was a great improvement to grant greater purchasing authority to the Administrator. We need to continue to make progress in granting management flexibility to that office, so that we can move forward more quickly than we have in the past in procurement efforts.

I would not have an opinion at this time whether $150 million or a higher number would be appropriate. But I think that it was a great improvement to have granted that increased flexibility. I applaud it.

Senator FORD. What do you consider the weaknesses at FAA today?

Ms. BARRETT. Mr. Chairman and members of the committee, I think that that falls closely in line with the three items that I mentioned earlier, that personnel flexibility needs to be enhanced, and I think that the FAA has really benefited from a team of top caliber professionals. It has got a great deal of depth and technical capability on staff.

But it needs enhanced personnel systems and management, to take advantage of the skills that exist there and to incorporate modern personnel management techniques to bring out the finest in the assets that we have in the current personnel.

In addition, I advocate technological advancements. This very month more Host computers are being brought on line. By the end of the year, each of those will, I understand, be inaugurated. These computers will bring us forward in our airspace capabilities.

But a lot more needs to be done there. We need to take advantage of simulators in training. We also need to make changes in the procurement system, as I mentioned earlier.

Senator FORD. I am convinced that FAA needs some day to day oversight. I asked the Administrator the other day if he could tell me how many days he had been out of office—I mean working out of the office. And it was very difficult for him to do. But he answered, I believe, Senator McCain's question later on.

When you start ticking off all these places that he had been and you start looking at how long it takes to get there and get back, he was admitting he had been out of the office a great deal. So I am pleased we are going to have somebody over there for the day to day operations.

Have you had an opportunity yet to discuss with Administrator McArtor what your duties will be and how you will work together?

Ms. BARRETT. We have discussed it. I think that what we will find is that a part of how we work together will be resolved as we work together. But the Administrator has pointed to my past experience in airport operations, in the air carrier business, and legal and international background to bringing to the agency credentials that vary somewhat from his, and that we would divide our responsibilities along the lines of our backgrounds and credentials.

Senator FORD. There are a lot of things before the FAA, like MASPORT fees, drug and alcohol testing, Eastern Airlines problem, airport noise, capacity, terminal control, Mode C, NAS Plan, air traffic control, deregulation, cabin safety. Well, you could just go on and on.

There is going to be difficulty in finding money to spend it under our present budgetary procedure.

Do you have any feeling about taking the trust fund off budget?

Ms. BARRETT. Mr. Chairman, I am sensitive to that issue. I have heard the arguments on both sides. I feel that the trust fund moneys are moneys that the traveling public has willingly spent in order to have a safe system. We must present them that safe system.

Whether it is on budget or off, I do not have a conclusion right now. I would like to look at it more carefully and I would be interested to come back and chat with you at a later time about the trust fund.

Senator FORD. That is a very good political answer. I think you will do well. You have been trained well for this position.

John, do you have some questions?

Senator MCCAIN. Thank you, Mr. Chairman.

As you know, we are very noncontroversial out in Arizona, especially those that occupy our Governor's chair.

I would like to again congratulate you on your appointment. And as I mentioned, I think you bring a degree of expertise and experience which is very important at this crucial time.

I think and hope you are aware that there are wonderful and outstanding and dedicated public servants who work in the FAA. However, I think you should also be aware that there is a perception in many parts of the aviation community, general aviation community and others, that there is an insensitivity to their needs and an unwillingness to listen to their concerns on the part of members of the bureaucracy in the FAA.

There is a great deal of frustration that has been voiced to this committee, and one of the reasons why our chairman has proposed legislation to make the FAA completely independent is because of a lot of the concerns that have been voiced to us.

A small example is when we had a hearing on a proposed TCA at Phoenix. The chairman was kind enough to come out to Phoenix. The FAA people gave their testimony first, as was proper pecking order, I believe, and then left without listening to the others. That is just a very small example, but it gives the impression to people that they are not listening to the other Americans who use the air space, whether they be airlines or people who engage in soaring or ballooning or general aviation.

I hope that one of the things that you would address is to make very clear to members of the bureaucracy that they are public servants, just as we are public servants, and they have got to bend over backwards to show a sensitivity to the American people, whether they be an airline passenger or a general aviation pilot or whomever he or she may be.

And I want to tell you very frankly, there is an image problem out there. And I would hope that one of your first duties would be to refurbish that image. Not every Federal bureaucracy has that image with the American people.

And one of the ways that you could prove that to the American people is when the FAA considers these new TCA's, to make sure that the people are heard from. Don't write the rules and then see if they can be changed, because there is an awareness out there

that these rules, once they are written, are not changed no matter what anyone says, but that they receive the input from the people who are going to be affected by these TCA's before the rules are written.

I think that is just a very small item.

One other area I would like to have your response on, as well, is the issue of the slots, the landing areas, the ability of aircraft to land at existing airports. You know because you were part of deregulation. You lost your job as part of deregulation when you were a member of the CAB.

And we find ourselves now faced with a situation which to me is in some ways de facto reregulation because of the overwhelming share of the slots are captured now by one airline. St. Louis, I believe, receives 80 percent of its service from one airline, and the list goes on.

And add to that there are numerous airports where we simply do not have additional capability of aircraft to land. So we are now facing, I think, the possibility of de facto reregulation. And one of the answers is obviously to build more airports. That is easier said than done.

Are you aware of this problem and do you have any ideas as to how we can address it?

Ms. BARRETT. Thank you, Mr. Chairman, Senator McCain. On the first point that you made, I agree that there has been a real perception problem with the FAA. As you know, I attended that hearing in Phoenix that you and Senator Ford were kind enough to hold. I recognize the value of the input from the diverse aviation interests. Each of those interests need to be heard, whether air carrier, general aviation interests, recreational fliers or military.

And I think that a part of the problem that arose in that case was an instruction to the FAA that they move on after their testimony. I have already indicated my interest that leaving such a hearing was inappropriate and should not happen in the future. I believe that the appearance of FAA insensitivity is not an accurate representation of the attitude of most of the people at the FAA.

But those in the agency for whom the term "insensitive" is accurately applied, will hear from me that such an attitude cannot be tolerated.

On the issue of slots, Mr. Chairman and Senator McCain, I am well familiar with the issue of slots. I consider slot controls one of the great constraints that currently stifles the deregulated aviation community.

The long term answer to slot restrictions is to build more runways. Runways are very expensive. But with some help from our friends here on the Hill, the FAA, and local communities, more runways can be constructed. And I think we have fallen behind in airport construction. These changes on the ground are the most efficient way to enhance the long-term availability of slots.

In the interim, I think that it would be appropriate to take a look for other solutions that can help alleviate the slot restrictions. The mix of aircraft landings and takeoffs on some of the existing runways may be revised to provide greater capacity and open additional slots.

As you know, my background and my heart are in seeing deregulation work. Deregulation only works if you can provide air side capacity for the aircraft. Currently at major airports the bottleneck is the lack of capacity. So in the immediate future look for better solutions to this problem. The long term solution is construction of new airport runways.

Senator McCain. Thank you and congratulations.

Thank you, Mr. Chairman.

Senator Ford. Senator Exon.

Senator Exon. Thank you very much.

I only have one question of the nominee. I am very much impressed with those who are supporting her and her background information, which indicates to me, at least, she is highly qualified for this post. I have one question, though, that I am certainly convinced is going to be with us for a long, long time, and we need some help and assistance, it seems to me, with people in the position that you have been nominated to.

What is your position with regard to the trust fund that has been allowed to accumulate through several Administrations? We have obvious needs for the use of that money. Basically, I think this Administration and previous ones have held up spending for a whole variety of reasons, not the least of which is the fact that the higher the trust fund balance, the more it offsets to mask the skyrocketing deficit that we have.

Would you be adverse to some type of an action by the Congress to either move the trust fund off budget or to mandate that the incoming money to the trust fund in the form of fees on tickets be reduced or eliminated until that trust fund is more realistically employed to do the things that were envisioned when it was originally created?

Ms. Barrett. Mr. Chairman, Senator Exon, you know, I cannot argue with your logic. The passenger paying the ticket and the shippers paying the waybill tax expect those funds to be used for the purpose of safety and efficiency of our air transportation system.

At this time, I am not an advocate of taking it off budget, but I certainly recognize that as a major problem. And I think that it really does deserve to be given a great deal of attention.

The airport and airways, which the trust fund was initially set up to support, deserve and need an adequate and continuing flow of funding. Whether funding is best achieved by the trust fund or some other mechanism is something that has been debated for years and really does need to come to some solution. And I applaud the efforts of this committee and the Senate in this year to take a look at the funding issue, as well as the structuring at the FAA.

Senator Exon. Well, thank you for your comments. I do hope that you will keep an open mind on this. With the difficulty that we have now in our air traffic control systems, and I think the difficulty that we are going to have in the future with not only the ATC system, but what I think will be an expanding need for airports, there is a stong demand for these funds.

It seems to me either we ought to expend it for the purposes that it was intended or cut off the tax. And I hope that you will take an objective look at that.

Thank you very much. No further questions, Mr. Chairman.

Senator FORD. Thank you very much.

Barbara, we look forward to expediting your nomination. Thank you very much.

Ms. BARRETT. Thank you, Senator.

[Whereupon, at 9:30 a.m., the committee was adjourned.]

[The following information was subsequently received for the record:]

ARIZONA PILOTS ASSOCIATION,
Phoenix, AZ, March 10, 1988.

Hon. ERNEST HOLLINGS,
Senate Office Building,
Washington, DC.

DEAR SENATOR HOLLINGS: I am writing in support of the appointment of Barbara McConnell Barrett as Deputy Administrator of the Federal Aviation Administration.

In my interaction with Mrs. Barrett I have found her to be very thorough in her assessment of issues and I have been impressed with her astute grasp of complex issues and her ability to deal with them in a fair and open-minded manner. She has had exposure to a broad range of aviation issues through her term on the Civil Aeronautics Board and her two appointments to the City of Phoenix Airport Advisory Board.

During her initial appointment to the Phoenix Advisory Board she accepted an opportunity I had extended to observe first hand the importance and benefits of general aviation and the complexities and problems pilots face. Her interest in general aviation developed to the point of undertaking flight instruction and she maintains a continuing interest in general aviation issues.

With Mrs. Barrett's first hand experience with general aviation and her experience from serving on the CAB, I believe she would be a very important asset to the FAA at a time when her type of varied experience appears to be lacking in FAA personnel.

For these reasons I would wholeheartedly support her nomination.

Respectfully,

JAMES D. TIMM,
President.

MARC G. STANLEY, TO BE ASSISTANT SECRETARY OF COMMERCE FOR CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS; ROBERT H. BRUMLEY II, TO BE GENERAL COUNSEL; AND FRANK DeGEORGE TO BE INSPECTOR GENERAL, DEPARTMENT OF COMMERCE

FRIDAY, MARCH 25, 1988

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The committee met, pursuant to notice, at 9:06 a.m., in room SR-253, Russell Senate Office Building, Hon. John D. Rockefeller IV presiding.

Staff members assigned to this hearing: Becky Kojm, professional staff member; Linda Lance, staff counsel; and Macky Ayers, minority professional staff member.

OPENING STATEMENT BY SENATOR ROCKEFELLER

Senator ROCKEFELLER. The hearing will come to order.

Today the Committee on Commerce, Science, and Transportation, beginning six minutes late, is considering three Commerce Department nominations which have been submitted to the Senate by the President of the United States. The first is Marc Stanley to be Assistant Secretary for Congressional and Intergovernmental Affairs. The second is Robert Brumley to be General Counsel; and the third is Frank DeGeorge to be Inspector General of the Department.

The official function of the Department, as people know, is to encourage, serve and promote the nation's international trade, economic growth and technological advancement. Given the vital role that this department plays in the economic well being of our country, it is important obviously that we attract, nominate and confirm the most highly qualified, best people.

I thank all of you for being here. I am particularly honored that Lowell Weicker is here, who has distinguished himself in many committees in many ways, and I am honored to hear what comments you might have, Senator Weicker, in making your introduction.

STATEMENT OF HON. LOWELL P. WEICKER, U.S. SENATOR FROM CONNECTICUT

Senator WEICKER. Thank you very much, Mr. Chairman. It is a pleasure to appear before you in this committee.

I am here to introduce Marc Stanley who has been nominated to serve as Assistant Secretary for Congressional and Intergovernmental Affairs for the Department of Commerce. I have known Marc for all the years that I have been in Washington. I have a high regard for his integrity, for his professionalism. We also happen to be nextdoor neighbors. We have had the same seats in the end zone for Washington Redskin games for the past 18 years, and his comportment during a football game is commendable. It does not change, unlike some of my other neighbors at the football game.

In any event, Marc has served in the legislative branch for over 20 years.

Marc Stanley began his distinguished government career as a legislative assistant to Congressman Seymour Halpern of New York. He then attended and graduated from the University of Baltimore Law School, before returning to Washington to work for Congressman Larry Coughlin of Pennsylvania. In 1973, he became Administrative Assistant to Congressman Ronald Sarasin of Connecticut. From his close association with Ron, I feel certain Marc gained a keen understanding of the legislative process. I know that he was an invaluable aide.

However, it was through his work with Ron Sarasin, who was the Congressman from Connecticut from the Fifth District that I came to know Marc very, very well. I think he has a great understanding of the legislative process, which I think is important in the position for which he has been nominated.

In 1979, Marc became an Assistant to Congressman William F. Clinger, Jr. of Pennsylvania, a position which he held prior to this nomination. In addition to his legislative responsibilities, Marc is a much sought after speaker who has lectured to numerous government, business and academic groups.

Mr. Chairman, Marc Stanley's wide experience and talent make him a worthy candidate for this position. I highly endorse his nomination and urge the Committee to report it favorably to the full Senate.

He brings the viewpoint, Mr. Chairman, of you and I and all those that labor in the vineyards here in the Senate and the House, and can convey the correct message to the executive branch.

So I wanted to make a point of being here personally, not letting this just go the norm, because of the great affection which I have for this man both personally and in terms of his professional abilities. I hope that this hearing will result in expedited consideration on the floor and that we can get Marc in position as soon as possible because I think he will serve us all very well, indeed.

Senator ROCKEFELLER. I appreciate that very much, Senator Weicker. I have tickets on the ten yard line. I got them in 1962, and I have had them ever since, with Charlie Peters. We do not behave at all.

Senator WEICKER. Maybe we should come over and visit you.

Thank you very much.

Senator ROCKEFELLER. Thank you very much, Senator Weicker, for not only this but the many things you do to serve your state and your nation.

Mr. Stanley, you come very well recommended, and I would be delighted to hear any comments you might have.

[The biographical sketch follows:]

ERNEST F. HOLLINGS, SOUTH CAROLINA, CHAIRMAN
DANIEL K. INOUYE, HAWAII
WENDELL H. FORD, KENTUCKY
DONALD W. RIEGLE, JR., MICHIGAN
J. JAMES EXON, NEBRASKA
ALBERT GORE, JR., TENNESSEE
JOHN D. ROCKEFELLER IV, WEST VIRGINIA
LLOYD BENTSEN, TEXAS
JOHN F. KERRY, MASSACHUSETTS
JOHN B. BREAUX, LOUISIANA
BROCK ADAMS, WASHINGTON
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RALPH B. EVERETT, CHIEF COUNSEL AND STAFF DIRECTOR
W. ALLEN MOORE, MINORITY CHIEF OF STAFF

United States Senate
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
WASHINGTON, DC 20510-6125

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

(If more space is needed, please use attached REMARKS sheet)

A. BIOGRAPHICAL DATA

1. Name: STANLEY (Last) MARC (First) G. (Other)

Address: 1083 Pipestem Place (Current residence) 1122 Longworth Office (Business)

Rockville, Maryland 20854 Washington, D.C. 20515

2. Position to which nominated: Assistant Secretary for Congressional and Intergovernmental Affairs, U.S. Department of Commerce

Date of nomination: February 16, 1988

3. Date of birth: 02 (month) 18 (day) 43 (year)

Place of birth: Washington, D.C.

4. Marital status: Married

Full name of Spouse: Luanne (Stein) Stanley

5. Names and ages of children: Jennifer Farrah 13 years old;

Todd Benjamin 9 years old

6. Education:

Institution	Dates attended	Degrees received	Dates of degrees
The American University	9/60 - 5/62	preparing for a B.A.	
The George Washington University	9/62 - 6/64	B.A. History	6/64
The University of Baltimore Law School	9/64 - 6/67	L.L.B.	6/67

7. Employment record: List all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

From	To	Name of employer	Address	Type of work
1/79	present	Congressman William F. Clinger, Jr.	1122 Longworth Bldg. Washington, D.C. 20515	Administrative Ass't.
9/81	12/87	The Washington Semester Program, The American University	Tenley Campus The American University Washington, D.C. 20016-8083	Adjunct Professor
1/73	12/78	Congressman Ronald A. Sarasin	229 Cannon Office Bldg. Washington, D.C. 20515	Administrative Ass't.
10/69	12/72	Congressman Lawrence Coughlin	2467 Rayburn Office Bldg. Washington, D.C. 20515	Legislative Ass't.
1/64	9/69	Macleay, Lynch, Bernhard & Gregg	1625 K Street, N.W. Washington, D.C.	Law Clerk

8. Government experience: List any experience in or direct association with Federal, State, or local governments including any advisory, consultative, honorary or other part-time service or positions.

1/86 present Congressional Staff Advisory Committee, Graduate School, U.S. Department of Agriculture, in addition to the positions listed under question #7.

9. Political affiliations activities: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last 10 years.

In the past, I have been a guest lecturer for The National Republican Congressional Committee's Orientation Program for the Freshman Classes and their Administrative Assistants for the 95th, 97th, 98th and 99th Congresses.

10. Memberships: List all memberships and offices held in professional, fraternal, scholarly, civic, charitable, and other organizations.

9/62 - 6/64 Member of the Alpha Epsilon Pi Fraternity, The George Washington University (chapter no longer there)

1974 - present House Administrative Assistants Association; Treasurer, 1983-84; Director-at-Large, 1982, 1986; Vice Chairman, Nominating Committee, 1988

1969 - present Member of the Congressional Staff Club of the U.S. Congress

11. Honors and awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, and any other special recognitions for outstanding service or achievement.

U.S. Coast Guard Meritorious Ribbon, 1973; Listed in Who's Who in Government and Who's Who in American Politics

Received a grant from The European Community's Visitors Programme to visit Europe to discuss issues relating to trade and defense, September 27 - October 26, 1985

STATEMENT OF MARC G. STANLEY

Mr. STANLEY. Thank you, Mr. Chairman.

I would like to thank Senator Weicker for his warm words of introduction.

I am deeply honored to have been nominated by the President for Assistant Secretary of Congressional and Intergovernmental Affairs of the Commerce Department. Additionally, I am particularly pleased to appear before this distinguished committee. This is an important day in my life, and I welcome the privilege of working with Secretary Verity and advising him on matters of concern that are most significant to the members of this committee, the Senate, as well as the other body.

I have spent the majority of my career involved with the legislative process as a congressional staff member to four Members of the House of Representatives, and have worked closely with both governors and their key staff, as well as local and state officials. I have come to realize the important role and responsibility members of the Senate have in the formulation of our laws and in developing national policy, and their strong reliance on credible information.

These associations have given me the insight into the value of sound judgment and the ability to communicate in a concise manner the interests of those Members whom I have served.

I sincerely believe that I bring to this position the experience, respect and knowledge to represent not only the Department of Commerce, but this committee as well.

If reported favorably by this committee and upon confirmation by the Senate, I pledge my support not only to this administration but my loyalty to keep the lines of communication open between the Congress and the executive branch.

Thank you, Mr. Chairman. I would be happy to answer any questions you may have.

Senator ROCKEFELLER. My first request would be if you have members of your family here, we would be glad to have them introduced.

Mr. STANLEY. Thank you, Senator.

In the front row is my sister-in-law Judy and my wife Luanne, my son Todd and my daughter Jennifer. And in the second row, a dear friend of mine, Mr. Levy, my wife's mother, Mrs. Parker, my mother, Mrs. Stanley, and my father-in-law, Mr. Stein.

Senator ROCKEFELLER. That is kind of packing the gallery, Mr. Stanley. But I am sure they must be very proud. It is an important day for them.

I welcome Senator Exon, who is in all matters my senior colleague.

Do you have any comments to make?

Senator EXON. Does that include age?

Senator ROCKEFELLER. It unfortunately does.

Senator EXON. I was fearful you would mention that.

I have no questions of the nominee, and I thank him for coming here this morning.

You will have my active support and help for whatever it is worth.

Thank you, Mr. Chairman.

Senator ROCKEFELLER. Thank you, Senator.

It is an interesting situation, Mr. Stanley, coming into the final lap, so to speak, of an administration, and there is a tendency sometimes for things to relax, just at a time when things ought not to be. I think some could characterize these particular months, and there are still many of them, as even more critical because sometimes people's guards are down and they are looking to the next administration, and yet every day there is something important which is happening, and we need the very, very best for not only the Congress but also the executive branch.

How would you characterize at this particular point the state of relations between the Department of Commerce and the Congress?

Mr. STANLEY. We have a new Secretary and his great interest is wanting to cooperate fully with the Congress. It has been my observation for the last three weeks as a consultant, just observing the process, that you have a very proactive department. They are most interested in working closely with the Senate and the other body, as well, and I would suspect because of the busy legislative schedule still left for the rest of this Congress, that will continue, Mr. Chairman.

Senator ROCKEFELLER. Good.

There is an approach, I think, that one can have to congressional relations. Congressmen can be insistent, persistent, sometimes, as I used to think when I was a governor, obnoxious in their pursuit of information and of answers. Congressmen have constituents. In my office we get, as I am sure Senator Exon does, thousands and thousands of letters and telephone calls, and we want to reply as quickly as we can, and the question, therefore, of getting response sometimes on matters that might seem trivial from the Department of Commerce on the many matters which engage me in relation to that department is very important.

Answering letters, getting the information to answer letters, although mundane to some, is not at all mundane, as you know, to Congressmen.

Would the rapid providing of information be something you would care about?

Mr. STANLEY. I would care a great deal about it. Having served two Congressmen as an administrative assistant, I am completely aware of the amount of mail that comes in and the sensitivity that you have toward your constituents. I would hope that I would be able to continue in the same efforts of my predecessors, to be very responsive to this committee, to the Senate and the other body.

Senator ROCKEFELLER. Do you have a position, so to speak, on the disclosure of information of agency information to the Congress? Are there areas which are difficult to disclose of information, or is it simply all things possible?

Mr. STANLEY. To the extent that I must confer with the General Counsel as to what I can and cannot respond to, I would hope that there would be open lines of communication between the Office of Congressional Affairs, the Senate and the other body, and I would hope that at the conclusion of my service to this Department, it could be said that I was one who kept the lines of communication

open, and that there was a free flow of information useful to this body.

Senator ROCKEFELLER. There is a question which I will not ask you but one that the Chairman of this full Committee, Senator Hollings wanted to have asked to you and will be asked to you in writing, and I would appreciate it if you could reply as rapidly as possible.

Do you have particular goals and objectives that you want to see accomplished in the next number of months or beyond?

Mr. STANLEY. The primary objective of this particular position is to be the advisor to the Secretary on those matters that appear before the Congress and receive clear messages from the committee, the Senate and the other body to the Secretary. I must also be able to play a role in communicating that information to governors and state and local officials.

I think the objective, therefore, would be to have a very well managed operation that would well serve the Secretary and the Congress.

My objective is to manage, to the extent possible, that flow of information so that we do great service to my constituencies.

Senator ROCKEFELLER. There are in the Department of Commerce and to this Senator in particular, a number of technology issues which are very, very crucial. That does not only relate to things like the U.S.-Japanese Science and Technology Agreement, but things, for example, like the Japanese translation bill, and there has been difficulty in getting that started up. It is started up. It is proceeding. There are very obscure things that go on but very important things that go on in the Department of Commerce relating to technology issues which are of particular interest to this Senator and, of course, many others.

You would do your very best to keep us abreast of all of these matters in response to inquiries we might have?

Mr. STANLEY. You have my word on that, Senator.

Senator ROCKEFELLER. The trade bill is, I believe, going to be passed by this Congress, and I believe it will be passed in a form that can be signed by the President.

Do you have a particular view as to the trade bill? A lot of it came from this committee, in fact, as well as the Finance Committee and dozens of other committees, which is why we have an impossible conference situation, but do you have a view about that trade bill, whether it addresses our trade difficulties adequately?

Mr. STANLEY. As you well know, the——

Senator ROCKEFELLER. The trade bill, of course, is not fully defined, so that makes it difficult.

Mr. STANLEY. It is a rather difficult piece of legislation which I think the Department has attempted to cooperate fully with the Senate and the other body. I think it is an important piece of legislation, and subject to the further negotiations and accommodations that can be made, I remain hopeful that we can present a bill to the President which he can sign.

Senator ROCKEFELLER. Mr. Stanley, as I say, you have come highly recommended, and you have, I would say from Senator Exon's and my point of view, a very strong advantage in that you have worked on the Hill and you know our problems very much.

I have no further questions of you, and if Senator Exon does not, I would wish to thank you.

Senator EXON. I have just one question, Mr. Chairman, that I would like to pose.

Senator ROCKEFELLER. Please, Senator.

Senator EXON. In our rather extensive negotiations with the administration on the trade bill that you just made reference to, it is my prediction that we are going to come out with a trade bill that is not going to please everyone, but one that will not automatically receive a presidential veto, as has been threatened so often that it is becoming redundant in the process.

What is your perception of what I see from time to time is, and that is that there seems to be almost as much division of opinion with regard to this particular trade bill within the Administration as there is in the House and the Senate and the various committees and subcommittees of the House and Senate?

I have no basic confirmation of this, but I have sensed in dealing with some Administration officials that there is an uneasiness between the Department of Commerce and the Department of the Treasury, to name two, with regard to this trade bill, and turf fights seem to be developing from time to time, although they have not broken out on the surface, between certain of the Secretaries.

In some instances, we find that the Treasury Department wants to be foremost in this, and seemingly consider Commerce a poor second cousin on many of these things. Because of your experience and background, I think you know what I am referring to, and I am wondering if you could possibly clarify the differences in the responsibilities of the Department of Commerce and the Department under James Baker with regard to overall trade policies, and especially trade bills.

Mr. STANLEY. That is a difficult question to answer, Senator.

My observations from the executive branch have only been for approximately three weeks. I can assure you that there appears to me to be a willingness on the part of the agencies who are helping and assisting in formulating this policy, to negotiate or accommodate where possible with the Committees in the Senate and the other body as we move this legislation along.

Historically, I think there are subtle differences between the various agencies, and each wants to hold their own individual ground to certain substantive parts of the legislation. But I think there is a clear purpose here. The President alluded to it earlier, that he was appreciative of the support that had continued to go forth at the sub-conference level, and I have yet to see major turf problems developing. I think you have some very talented Secretaries who want to advise the President accordingly, and equally as well, Senators and Congresspersons working closely to try to get this legislation through.

Indications at least from my observation are that everyone really would like to get this bill moving out, and hopefully before the Easter recess.

Whether that can occur, I think time will tell.

Senator EXON. Thank you.

No further questions, Mr. Chairman.

Senator ROCKEFELLER. Thank you, Senator Exon.

Maybe it would be appropriate for me to say that I have an enormous regard for the Secretary of Commerce. I have known him for many, many years, back early when he was chief executive officer of Armco Steel, and one of the things in his nomination which was very smooth with the exception of one particular sort of Jackson-Vanik assault, which came from just a few Senators, which I did not think was warranted, I come from West Virginia, and we have a lot of coal mines there. National boards of steel companies tend to know steel but not much about coal, and he was the first business leader of steel that I ever observed who took his entire board of directors down into a coal mine and made them understand what it was to mine underground. These were mines that belonged to Armco Steel.

It strikes me that that gives him symbolically a sense of the practical in trade matters as well as a matter of the theoretical, in the way the world should work and the way the world does work. I am very, very enthusiastic about the man that I hope that you are going to be working for.

With that, Mr. Stanley, let me say that, as with Senator Exon, I have a very high regard for you. You can count on my very strong support. The fact that we do not badger you with questions I think reflects what I have just said.

I am grateful that you have been here.

Mr. STANLEY. Thank you, Mr. Chairman.

Thank you, Senator.

Senator EXON. Thank you.

Senator ROCKEFELLER. And we thank your family also for being here.

[The following information was subsequently received for the record:]

POSTHEARING QUESTIONS OF THE CHAIRMAN AND THE ANSWERS

Mr. Stanley, I am the Chairman of the Committee on Commerce, Science and Transportation and also chair the Subcommittee on Appropriations for the Department of Commerce. On Wednesday, March 23rd, the Appropriations Subcommittee held a hearing on the 1989 budget of the National Oceanic and Atmospheric Administration. During the hearing I asked several questions of Bill Evans, the Under Secretary-designate about a letter he had received from Representative Leon Panetta with regard to the coastal zone management grant to the California Coastal Commission. Mr. Evans declined to respond, citing advice from the Department counsel not to because the matter was in litigation.

I then asked for a copy of the Department's response to a letter that Senators Cranston and Wilson and Representatives Panetta and Edwards had sent to Secretary Verity on January 21, 1988 about this matter. The NOAA witnesses professed to not being aware of that letter until my appropriations staff had brought it to their attention earlier in the week and stated that the response was being prepared. I still don't have the response.

Mr. Stanley, you have worked in a Congressman's office and I expect have suffered along with the rest of us with agency delays in response to our letters. But two months without even an acknowledgement is outrageous.

Mr. Stanley, I know you are aware of this matter and I want to ask you 3 questions.

Question 1. What is the present status of the response to the letter of January 21st?

Answer. The response from the Secretary to Senator Wilson was hand delivered on the evening of March 24. A copy was delivered to the Senate Commerce Committee on the same date. The responses to Senator Cranston and Congressmen Edwards and Panetta were hand delivered on the morning of March 25.

Question 2. You have been working at the Department of Commerce for a few weeks. What in your opinion is the reason for the lack of response to congressional inquiries, is there complete indifference or just what is the operating policy? For instance, doesn't common courtesy demand a timely acknowledgement of correspondence?

Answer. You have made a good point. I understand that Departmental procedures recommend a response to Congressional mail be prepared within two weeks and every effort is made to adhere to that requirement. If confirmed, I will certainly make it a priority to look into these procedures.

Question 3. I am told that when Luther Hodges was Secretary of Commerce—long before there were word processors and other office automation equipment—congressional mail was at least acknowledged if not responded to in 3 days. What are your plans for answering letters from members of Congress?

Answer. If confirmed, one of my first priorities will be to review the procedures to responding to correspondence from the Congress.

WILLIAM F. CLINGER, JR.
23RD DISTRICT, PENNSYLVANIA

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Congress of the United States
House of Representatives
Washington, DC 20515

COMMITTEES
PUBLIC WORKS AND TRANSPORTATION
SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT
RANKING REPUBLICAN
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT
SUBCOMMITTEE ON SURFACE TRANSPORTATION
GOVERNMENT OPERATIONS
SUBCOMMITTEE ON ENVIRONMENT, ENERGY AND NATURAL RESOURCES
RANKING REPUBLICAN
SELECT COMMITTEE ON AGING

March 24, 1988

The Honorable Ernest F. Hollings
Chairman
Committee on Commerce, Science, and Transportation
Washington, D.C. 20515

Dear Mr. Chairman:

I am very pleased to join in strongly endorsing Marc Stanley's nomination as Assistant Secretary of Commerce for Congressional and Intergovernmental Affairs and in urging you promptly to confirm the appointment.

Having known and worked with Marc for the past nine years I feel that I am better qualified than most to comment on his very exceptional abilities and qualifications. The fact is that throughout the entire period of Marc's tenure as my Administrative Assistant I was extraordinarily well served.

To begin with Marc has a keen understanding of how things really work on Capitol Hill. His colleagues constantly sought him out for advice on how to proceed and he was unquestionably the best person to counsel with if you were looking for a job on the Hill. He gave a crash course in how to go about getting employed on Capitol Hill to literally dozens of young hopefuls - most of whom ended up working here.

Marc Stanley was more than an Administrative Assistant for me. He was a wise and trusted advisor. I regularly sought out his counsel on how to proceed in a variety of matters. It was never off the mark.

In addition to carrying out the traditional functions of an Administrative Assistant, Marc also functioned as an extremely effective advocate on the more complex and difficult problems which my individual, corporate or community constituents faced with the Federal Government. He rarely failed to achieve the constituent's objectives, even though the process might take months of delicate negotiations. He is no quitter when it comes to pursuing goals.

Marc Stanley is a good people person. He relates extraordinarily well with nearly all of his fellow human beings. This stood him and me in good stead during the years we have worked together. I am sure that it is a talent that will serve the Department of Commerce equally well as he goes about the task of promoting the Department's agenda with me and my colleagues here in Congress. He can be a most forceful and persuasive advocate.

The bottom line is that the President could not have nominated anyone better for the job. Marc Stanley has the knowledge of the Hill, the experience and personality and the intelligence coupled with a tenacity to succeed which will make him a forceful and articulate spokesman for the Department of Commerce. I will miss him because as I have said he has been a very highly valued employee, trusted counselor and most importantly, good friend for many years. I wish him well as he prepares to bring his considerable talents to bear on behalf of the Department of Commerce. I know the Department will be well served.

Sincerely,

William F. Clinger

WILLIAM F. CLINGER, JR.
MEMBER OF CONGRESS

Senator ROCKEFELLER. Mr. Robert Brumley.

I am very pleased to welcome you this morning, Mr. Brumley, as the nominee for General Counsel of the Department of Commerce.

I understand, Mr. Brumley, that for a portion of your legal career you have been a self-described country lawyer in rural Virginia.

As a resident of an even more rural state than your own, I have the highest respect for that particular variety of lawyer. You have practiced law at the Department of Commerce since 1983, first as Special Counsel to Irving Margulies.

Mr. BRUMLEY. And Sherman Unger, Mr. Chairman.

Senator ROCKEFELLER. Yes, right, and now Deputy General Counsel.

You have been holding down several jobs, in fact. We appreciate the extraordinary effort that such a situation must entail. As Members of the Senate Commerce Committee well know, the Department of Commerce has responsibility for a wide range of important issues, everything from international trade, space commercialization and minority business to weather prediction. Those, I would think, would present all kinds of complex problems and require the most talented legal advice.

I look forward to the committee's discussion of your nomination today.

Senator Warner has a written statement, warmly endorsing you and praising you, which will now be made a part of the record, and I wonder if there are any comments you wish to make.

[The statement and biographical sketch follow:]

STATEMENT OF HON. JOHN W. WARNER, U.S. SENATOR FROM VIRGINIA

Mr. Chairman, members of the Committee, it is my distinct pleasure to introduce to the Committee and endorse for the position of General Counsel to the U.S. Department of Commerce, Mr. Robert H. Brumley I.

As the Commitee is no doubt well aware, Mr. Brumley currently serves as Acting General Counsel of the Department following the November 1987 resignation of former General Counsel. Mr. Brumley has served as Deputy General since his appointment on October 2, 1985.

In fulfilling his responsibilities commensurate with the post of Deputy General Counsel, Mr. Brumley has distinguished himself in a number of areas important to this committee and to the country. His expertise and commercial space initiatives, antitrust and product liability to name but a few, are reflected by the number of ad hoc committees and working groups upon which he has served and are apparent to this committee, with which he has worked.

It would be remiss for any Senator to introduce a candidate as strong as Mr. Brumley without noting which perhaps distinguishes him most: Mr. Brumley is a Virginian, having come to Washington from the Norfolk firm of Doumar, Pincus, Knight and Harlan. He is a member of the Virginia State Bar and holds office in the Bar Association's International Law Section.

Further, Mr. Brumley is a Lieutenant Colonel in the U.S. Marine Corps Reserves and serves as a Commanding Officer Air Control Squadron 24 in Virginia Beach. He is also President of the Marine Corps Reserves Officers Association Otho Rogers Chapter here in Washington.

While I am confident that the Committee is already aware of these final two distinguishing merits, this former Marine from Virginia takes pride in noting them for the Record.

Finally, Mr. Brumley is married to the former Varn Lewis of Aylett, Virginia, and the Brumleys are proud parents of two fine sons, Robert III and Fletcher Warner.

Mr. Chairman, I have known Bob Brumley for several years and hold him in the highest regard. Once confirmed, he will continue to render the exceptional level of service to his country that has marked his career thus far. It is my privilege to endorse to the Committee Robert H. Brumley II to be General Counsel to the United States Department of Commerce.

ERNEST F. HOLLINGS, SOUTH CAROLINA, CHAIRMAN
DANIEL K. INOUYE, HAWAII
WENDELL H. FORD, KENTUCKY
DONALD W. RIEGLE, JR., MICHIGAN
J. JAMES EXON, NEBRASKA
ALBERT GORE, JR., TENNESSEE
JOHN D. ROCKEFELLER IV, WEST VIRGINIA
LLOYD BENTSEN, TEXAS
JOHN F. KERRY, MASSACHUSETTS
JOHN B. BREAUX, LOUISIANA
BROCK ADAMS, WASHINGTON
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BOB PACKWOOD, OREGON
NANCY LANDON KASSEBAUM, KANSAS
LARRY PRESSLER, SOUTH DAKOTA
TED STEVENS, ALASKA
BOB KASTEN, WISCONSIN
PAUL S. TRIBLE, JR., VIRGINIA
PETE WILSON, CALIFORNIA
JOHN McCAIN, ARIZONA
RALPH B. EVERETT, CHIEF COUNSEL AND STAFF DIRECTOR
W. ALLEN MOORE, MINORITY CHIEF OF STAFF

United States Senate
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
WASHINGTON, DC 20510-6125

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

(If more space is needed, please use attached REMARKS sheet)

A. BIOGRAPHICAL DATA

1. Name: Brumley, II (Last) Robert (First) Haywood (Other)

Address: P.O. Box 148 (Route 600), Aylett, Virginia 23009 (Current residence)
14th & Constitution Avenue, N.W., Washington, D.C. 20230 (Business)

2. Position to which nominated: General Counsel, U.S. Department of Commerce
Date of nomination: 02-29-88

3. Date of birth: 07 (month) 19 (day) 1948 (year)
Place of birth: Cherry Point, N.C.

4. Marital status: Married
Full name of Spouse: Margaret Varn Lewis Brumley

5. Names and ages of children: Robert H. Brumley, II (age 16)
Fletcher W. Brumley (age 12)

6. Education:

Institution	Dates attended	Degrees received	Dates of degrees
East Tennessee University	07/66-06/67; 07/68-06/69; 09/72-06/74	B.S.	06/74
U.S. Merchant Marine Academy	07/67-05/68	None	---
University of Tennessee, College of Law	09/74-06/77	J.D.	06/77

7. Employment record: List all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

From	To	Name of employer	Address	Type of work
10/85	present	U.S. Dept. of Commerce	14th & Constitution Washington, D.C.	Deputy General Counsel
5/83	10/85	U.S. Dept. of Commerce	14th & Constitution Washington, D.C.	Special Asst. to General Counsel
6/80	5/83	Chenault, Brumley & Chenault	P.O. Box 40 Aylett, VA	legal
6/79	6/80	R. H. Brumley	P.O. Box 40 Aylett, VA	legal
8/77	6/79	Doumar, Pincus, Knight & Harlan	1350 Sovran Bank Bldg., Norfolk, VA	legal
7/72	present	U.S. Marine Corps Res.	MACS-24 FCTC Dam Neck, VA	MOS 7210

9. Political affiliations activities: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last 10 years.

(1) Member, Portsmouth, Virginia Republican City Committee, 1977-1979

(2) Member, King William County, Virginia Republican Party, 1979-1983

(3) Area Coordinator, Reagan-Bush, 1980 and 1984

(4) Area Coordinator, Coleman-Miller-Durette, 1981

(5) Volunteer, John Warner for U.S. Senate, 1978

(6) Volunteer, Herbert Bateman for U.S. Congress, 1982.

(7) Member, Republican Presidential Task Force, 1984-1986 (financial contributor - $200)

(8) Volunteer, Durette-Coleman-O'Brien, 1985.

(9) Volunteer, Paul Trible for U.S. Senate, 1982.

10. Memberships: List all memberships and offices held in professional, fraternal, scholarly, civic, charitable, and other organizations.

(1) Cub Scouts of America, 1956-1958, (2) National Rifle Association, 1956,

(3) Phi Delta Phi Fraternity, 1975-1977, (4) Virginia State Bar, 1977-present,

(5) Norfolk & Portsmouth Bar Association, 1977-1979, (6) Marine Corps Reserve Officers Association, Otho Rodgers Chapter, 1982-present, (7) Middle Penninsula Bar Association, 1979-1984, (8) Virginia Trial Lawyers Association, 1978-1980, (9) American Bar Association, 1977-1984.

11. Honors and awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, and any other special recognitions for outstanding service or achievement.

(1) Navy Achievement Medal, 1984

(2) Meritorious Unit Citation, 1982

(3) Ready Reserve Ribbon (recipient of four such awards since 1968)

(4) National Defense Medal, 1968

(5) various U.S. Marine Corps Reserve letters of commendation

Senator ROCKEFELLER. Senator Exon, do you have any questions?

Senator EXON. I have no questions. I have looked at the background information on Mr. Brumley, and it seems to me like he is highly qualified for this position, Mr. Chairman. And I hope we can move aggressively forward in confirming his nomination.

Senator ROCKEFELLER. What is the size of the staff of lawyers that you will be supervising as General Counsel?

STATEMENT OF ROBERT H. BRUMLEY II

Mr. BRUMLEY. Thank you, Mr. Chairman. No comments other than it is an honor to be nominated by the President, and it is a pleasure to be here today to answer your questions.

The supervision is broken into two types. One would be most immediate, that is, those who are on not only the payroll of the General Counsel but also those who report directly to the General Counsel. That is approximately 120 attorneys.

The other category of supervision stems from the professional oversight of all legal opinions, programmatic legal opinions, as well as legal opinions that reflect the opinion of the Department. You can add to that 120 approximately another 75 to 90 attorneys. So the total office, so to speak, both direct and indirect, is about 250 attorneys and staff.

Senator ROCKEFELLER. That is a large number. I had not realized there were that many.

There are special fields, and then I would assume there are lawyers who have special talents in those fields, and there is sort of a general approach.

How does that break down?

Mr. BRUMLEY. The Department's legal shop is very corporately organized. There is the immediate office of the General Counsel, which is the General Counsel, the Deputy and the Special Assistant. Then there are cross-cutting legal offices that provide legal services throughout all the operating units of the Department and the Office of the Secretary. That would be the Assistant General Counsel for Legislation and Regulation, and the Assistant General Counsel for Finance and Litigation. This office handles the kind of litigation that deals with claims and collections of loans or recovery of monies through grants that have been in default. Finally, an Assistant General Counsel for Administration which covers ethics, personnel law, general law, budget, appropriations law.

Those offices service, as I have said, the entire Department because those interests are common throughout the Department.

The other legal offices are program legal offices, chief counsels we refer to them as, and there is a chief counsel with specialized, programmatic, legal advice provided for the International Trade Administration, the Export Administration, Minority Business Administration, Economic Development Administration, National Telecommunications and Information Administration, Patent and Trademark Office, the Bureau of Economic Affairs, National Bureau of Standards and the Bureau of the Census.

So their legal ability and particular expertise is very specialized and very programmatically oriented.

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Senator ROCKEFELLER. In the area of trade itself, do you have a number of trade specialists who are lawyers?

Mr. BRUMLEY. In the Chief Counsel's Office for International Trade, the attorneys are broken into two different categories, one that deals with the specialized area of countervailing duty and anti-dumping law—laws that deal with the administration of imports.

The other category of specialized legal talent would be in the area of general international trade law; the GATT, trade development, business counseling, and export trading companies.

They are all specialists in their own right as to the particular portfolio or file they happen to be working on.

As to specific specialties, the only recognized specific specialties would be obviously in the Solicitor's Office at the Patent and Trademark Office, because that is recognized as very much a legal specialty.

In NOAA, we also have in the General Counsel's office specialists who deal with environmental law.

Senator ROCKEFELLER. Good.

There is a lot of talk, quite necessary talk, about the discrepancy between what government officials can earn as opposed to what they could earn in the private sector. That, I think, would be true of lawyers perhaps more so than most other specialties.

What are your observations on salary discrepancies and whether that is a gap that is widening or not? How difficult does that make it for you to keep, should you be confirmed, your best people?

Mr. BRUMLEY. What attracts young people to the Department of Commerce, the Office of General Counsel, is the work; the kind of work, the challenge, the opportunity to have responsibility immediately for the kind of legal work that is on the front pages of the newspaper every day. It is a very exciting type of legal work to be involved in.

That offsets a variance of about $40,000 a year that a similar associate would get, say, going to a prime law firm here in town. That $40,000 difference becomes a factor after about two or three years at the Department.

We have a turnover of about 20 percent in the trade area where attorneys come, develop their specialty, develop an exposure to a number of issues, grow professionally, and then, quite candidly, for economic reasons, they leave the Department and go into private practice. I personally think they do the right thing.

So we are exporting, if you will, a lot of legal talent to some D.C. firms.

Senator ROCKEFELLER. Yes. Of course, that is part of the problem in a sense that many of them soon become lobbyists for the Japanese.

Mr. BRUMLEY. Not the ones we send out.

Senator ROCKEFELLER. Senator Exon, there is a terrific new book out called Trading Places by Clyde Prestowicz, who has worked with the Department of Commerce in the past. You will be glad to know, Senator Exon, that I am reviewing that book for the Wall Street Journal, so I can imagine your anticipation in reading my review.

Senator EXON. I cannot wait.

Senator ROCKEFELLER. In conversations over the years with him, it is troubling to me the number of people who really do, either with USTR or Department of Commerce, particularly USTR, simply go off and become lobbyists with the Japanese.

Clyde Prestowicz is somebody who refused to do that and has paid a financial price because of it.

It is a troubling problem, and salary has everything to do with that. I wish there was a way to pay more. We have not been very good at that. We seem to do all right for ourselves but no so well for government officials in general.

May I ask, also, do you have family here?

Mr. BRUMLEY. Yes, Mr. Chairman, I do.

Senator ROCKEFELLER. Could we meet them?

Mr. BRUMLEY. My wife, Margaret Varn Lewis Brumley. If she will stand up and show the dress that she is wearing, at least I will get some mileage out of what I paid for it.

My oldest son, Rob; and also Fletcher Warner Brumley.

Senator ROCKEFELLER. That is great. We welcome them here.

I have no further questions, Mr. Brumley. I have been, as has Senator Exon, through your background. You come very highly recommended. You clearly have experience for this, and you clearly want to do it. I think I can say that you are going to have very strong support on this committee. You certainly are from me.

Mr. BRUMLEY. Thank you, Mr. Chairman.

Senator EXON. Mr. Chairman, may I ask Mr. Brumley the same question that I asked a previous nominee, and that is can you delineate the lines on trade generally that seem to shift back and forth between the Treasury Department and the Department of Commerce?

Can you clarify that for me a little bit?

Do you agree that these two departments from time to time seem to have some dual responsibilities in many of these areas?

Mr. BRUMLEY. This would be a personal opinion, Senator and not, certainly, the views of the Department.

The Treasury Department has a dynamic responsibility in promoting economic policy for this administration. Secretary Baker chairs the Economic Policy Council at present.

Secretary Verity has a dynamic responsibility in promoting the interests of American business, small, medium and large, domestically and internationally.

I do not feel these two departments are antagonistic to each other in a turf sense. Clearly, Secretary Verity is not a turf-oriented individual.

There are, however, responsibilities that merge and through merger actually strengthens whatever outcome is administration policy.

So the specter that there may be a tug and a pull is one that I would hope the Congress would view as healthy. The last thing I would think the Congress would want would be just one person's point of view being represented in trade policy when, in fact, trade policy or economic policy is a dynamic of a number of agencies.

Senator EXON. I would generally agree with you, Mr. Brumley, that the two Secretaries probably have no difficulties. I suspect that we do get into the bureaucracy in both the Department of

Commerce and Department of Treasury from time to time, which causes more of a problem than the Secretaries themselves.

Mr. BRUMLEY. We have a saying, sir, at the Department that the President and the Secretary are never wrong. It is those of us who have to implement their vision who are flawed.

Senator EXON. It is almost the same definition that we would like to believe of ourselves as members of the United States Senate.

Thank you, Mr. Chairman.

Senator ROCKEFELLER. Thank you, Senator Exon.

Mr. Brumley, you have, of course, already answered many questions in writing; but again, the absence of questions, I think, reflects the fact that we have full confidence in you.

Thank you very much for coming, and thanks to your family, also.

Mr. BRUMLEY. Thank you, Mr. Chairman and Senator Exon.

[The following information was subsequently received for the record:]

PREHEARING QUESTIONS OF THE CHAIRMAN AND THE ANSWERS

Question 1. What do you believe to be the appropriate role of an agency general counsel with respect to agency policy-making? Should the general counsel be a policy-maker or should his or her role be limited to providing legal advice on the policies proposed by the Secretary and his delegates?

Answer. The General Counsel is the chief legal officer of the Department, and as such his primary responsibility is to provide legal advice to the Secretary and other Departmental officers. The General Counsel should assume additional duties and responsibilities only as requested by the Secretary.

Question 2. You have given numerous speeches on product liability. As a general matter, do you believe tort reform at the federal level is currently necessary or appropriate? Why or why not?

Answer. I think there is an appropriate role for federal tort reform legislation in those areas, like product liability, where there is a compelling federal interest. The federal government is charged with the sole responsibility for regulating interstate commerce. Because today's stream of commerce is apt to carry any product beyond the state in which it is made, questions of product liability inevitably raise interstate commerce concerns.

Question 3. This Administration has advocated enactment of federal tort legislation which would include provisions capping non-economic damages, limiting attorneys' fees and eliminating joint and several liability in cases where defendants have not acted in concert. Do you support the Administration's legislative proposal? Why or why not?

Answer. Yes, I support the Administration's legislative efforts. In developing a product liability legislative package, the Administration tried to identify key product liability reforms which, if implemented, would return product liability law to a credible fault-based system that provides a fair and reasonable level of compensation to deserving plaintiffs through a more predictable and affordable system.

Question 4. Would you support H.R. 1115, tort reform legislation now pending in the House of Representatives?

Answer. I think that H.R. 1115 is a good effort which is moving in the right direction to obtain meaningful product liability reform. Many of the concepts addressed in the bill are similar to the problems addressed in the Administration's reform efforts. I understand that several sections of the bill are still being actively considered and negotiated in the committee process. So, until that process is more clearly defined, I could not take a definitive position on the bill. I will say, however, as Secretaries Baldrige and Verity have previously said, that I will be pleased to work with anyone in the Congress to develop a bill which brings about meaningful product liability reform.

Question 5. The Administrator's advocacy of federal tort reform is based in part on the assertion that there has been an explosive growth in damage awards in liability litigation in recent years. A recent General Accounting Office report took issue with the Administration's findings in this regard, stating that GAO's data seems "inconsistent with the contention that there is a rapidly accelerating growth

in federal product liability filings across a wide range of products." GAO further found that the data cited by the Administration tell us nothing about the extent to which tort reform would address the need to provide equitable outcomes and deter unfounded litigation. Do the recent GAO findings alter your views on tort reform?

Answer. No. As you know, in the last few years there have been a great deal of conflicting data developed about the need for, or lack of a need for, product liability reform. I am not sure how all this conflicting material should be evaluated. I do think, however, that we are seeking product liability reform as a means to establish some certainty in an increasingly chaotic legal system that governs product liability suits. The chaos in the system is producing an environment that imposes an unacceptable burden on U.S. productivity and competitiveness.

Question 6. As General Counsel of the Department of Commerce what, if any, role would you play in the ongoing debate regarding federal tort reform?

Answer. As General Counsel, I would represent the Secretary of Commerce on the Tort Policy Working Group. The Working Group was established by the Attorney General to monitor and analyze developing areas related to tort law, to identify relevant issues and options, and to make appropriate policy recommendations to the President's Domestic Policy Council. I would advise Secretary Verity on federal tort reform matters being considered by the DPC, the Congress and the business community. I would also hope to work with the Congress in developing meaningful product liability reform.

Question 7. Under the terms of AT & T divestiture decree the Bell Operating Companies are prohibited from offering information services or providing long distance service or manufacturing equipment. Last September Judge Greene decided to continue these restrictions. Do you support the continuation of these line-of-business restrictions on the Bell Companies? Is the Department of Commerce drafting proposed legislation to lift these restrictions?

Answer. Responsibility for developing the Department's policy on these matters has been assigned to its National Telecommunications and Information Administration (NTIA), as this is principally a program issue. The Office of General Counsel has worked very closely with NTIA in developing its position, which has three key features:

The Bell Companies should be permitted to offer information services, such as computer-related communications offerings and electronic Yellow Pages.

The Bell Companies should be permitted to manufacture customer-premises equipment (e.g., equipment used to originate, route or terminate telecommunications). Because of complex trade and unresolved cross-subsidy problems, they should be allowed to manufacture network equipment only if certain conditions are satisfied.

Decisions as to whether the Bell Companies should be allowed to provide long distance services should not be made by the court, but by expert state and federal regulators.

The Administration has made no decision regarding the submission of legislation to eliminate these restrictions at this time.

Question 8. You have chaired the Economic Policy Council's Commercial Space Working Group and have had responsibility for the Commerce Department's involvement in commercial space issues. Do you believe NASA has been properly responsive to the possible privatization of aspects of the space industry? If not, how do you believe NASA could become more attentive to business aspects of the space program while maintaining the necessary level of attention to its primary mission, the advancement and development of the program and its technology?

Answer. On behalf of Secretary Baldrige, I assumed chairmanship of the Commercial Space Working Group in 1985. NASA was the Vice Chair of that Working Group. In my judgment, NASA has been responsive to every initiative proposed in the EPC, including President Reagan's most recent Commercial Space Initiative. Moreover, the NASA representatives have always been straight-forward and effective in advocating the positions of their agency.

Question 9. As General Counsel of the Department would you retain your current responsibilities regarding commercial space issues? If not, what would be the nature of your involvement in those issues?

Answer. The Secretary assigns the duties and responsibilities of the General Counsel. At this time, Secretary Verity has not stated what continued role I should play in Commercial Space.

Question 10. As General Counsel of the Department, what will be your responsibilities vis-a-vis the General Counsel of the National Oceanic and Atmospheric Administration on legal questions arising out of the responsibilities of NOAA?

Answer. The General Counsel of NOAA is the chief legal officer of that agency, and provides it with day-to-day programmatic legal advice. I rely upon NOAA's General Counsel to alert me to issues of Secretarial level importance and sensitive issues of legal policy. In those rare cases, if any, where the legal opinion of the Department's General Counsel and NOAA's General Counsel differ, the opinion of the Department's General Counsel prevails.

Question 11. Please provide a copy of the publications you edited for the Practicing Law Institute titled "The Commerce Department Speaks on Import Administration and Export Administration" (1984), and "The Commerce Department Speaks: Legal Aspects of Selling Abroad (Recent Developments in Antidumping and Countervailing Duty and Textile Trade)" (1987).

Answer. I am pleased to provide you with a copy of these publications.

POSTHEARINGS QUESTIONS OF THE CHAIRMAN AND THE ANSWERS

Question. During the course of the last few years, you have been very active with the economic policy council in the formulation of space policy, in particular the promotion of a commercial space policy.

In your opinion, what should be the government commercial space policy with regard to space shuttle pricing, indemnification, and termination liability?

Should the federal government charge the additive cost of a space shuttle launch for a commercial payload? or the full cost?

Should the NASA 308 indemnification authority be extended to commercial payloads that fly on the space shuttle?

Answer. These issues are currently under review in the SIG (Senior Interagency Group) Space of the NSC. I am not currently involved in these deliberations.

Question. What was your particular role in the formulation of the President's Commercial Space Intiative that was released on February 11, 1988?

Answer. On November 7, 1987, Douglas Riggs resigned as General Counsel of the U.S. Department of Commerce. Effective that date I became the Acting General Counsel. Due to demands of that Office I had limited involvement in formulation of the President's Commercial Space Initiative. My involvement consisted of reviewing the Initiative as it was developed in the Commercial Space Working Group to ensure its consistency with the new National Space Policy and the goals of the U.S. Department of Commerce.

Question. What is your role in the implementation of this initiative? In particular, the creation of a pricing policy for commercial payloads on the space shuttle such as the Commercially Developed Space Facility and Spacelab?

Answer. My role in the implementation of the President's Commercial Space Initiative will be solely as General Counsel of the U.S. Department of Commerce, if confirmed, in which capacity I will provide legal advice as requested.

Question. Are you familiar with the recent letter sent to Secretary Burnley concerning the indequacies of the Administration's new policy regarding liability and commercial expendable launch vehicles? (Attached please find a copy.)

Answer. I have reviewed the letter attached to these questions.

Question. Should the Federal Government indemnify commercial ELV operators for first and third party liability claims above the level of reasonably available insurance?

Answer. The Administration's policy concerning liability for commercial expendable launch vehicle (ELV) operations is that the U.S. Government should not be an insurer of last resort. That policy is consistent with its overall tort reform policy. I support that policy.

Question. In 1987, NOAA issued a request for a proposal to procure commercial launch services for GOES K, L and M. By action of the Congress that procurement process was transferred from NOAA to NASA where a final contract is still being negotiated.

What role, if any, did you play in the decision for NOAA to issue a RFP for commercial launch services? At the time the request was issued, did NOAA have the legal authority to enter into such a contract? If it did, what was the legal basis of NOAA authority?

Answer. I was an advocate within the U.S. Department of Commerce for the President's stated goal to develop the commercial space services market and to promote and maximize the use of the Government procurement process to achieve those ends.

At the time the RFP was issued for NOAA GOES commercial launch services, NOAA had the legal authority to enter into a contract, conditioned only on the

availability of appropriations. NOAA's authority to acquire needed services arises from the Secretary's general authority under the Federal Property and Administrative Services Act.

Question. What is the current price that has been negotiated with NASA and General Dynamics for the GOES K, L, and M launch vehicles? How does this cost compare with the original NASA estimate of a government buy of the ELV hardware? What are the main reasons for this price reduction?

Answer. NASA has the responsibility for this procurement. The National Oceanic and Atmospheric Administration has been closely following the process of these negotiations. I have no personal knowledge of the current prices that have been negotiated for the GOES launch vehicles or how this cost compares with the original NASA estimate of a Government buy of the ELV hardware.

Question. The President's new space policy reiterates his strong support of the space station program.

What is your current role in the space station program? And what is your personal and professional view of the current Intergovernmental Agreements and Memoranda of Understanding that are being or have been negotiated? In particular, what was your role in the technology transfer provisions of these agreements, and did you express serious reservations about these provisions?

Answer. As Acting General Counsel, I have provided legal support to the Department on issues arising from international space station negotiations.

Personally and professionally, as currently drafted, I support the Intergovernmental Agreements and Memoranda of Understanding concerning the international space station.

My particular role in the technology transfer provisions was to ensure compliance with the Export Administration Act, the Federal Technology Transfer Act and Executive Order 12591 (Facilitating Access to Federally Funded Research and Development). I did express serious reservations about earlier drafts of these Agreements because they did not comply with this Administration's dual policy concern that technology transfers, especially in support of international science and technology cooperative programs, should protect U.S. national security interests and promote U.S. economic interests. I am satisfied that these Agreements as currently drafted have adequate safeguards to satisfy both concerns.

Question. do you think it is in the best interest of the United States to enter into an international space station agreement with ESA, Japan and Canada?

Answer. The President has directed and I support entering into international space station agreements with the European Space Agency, Japan and Canada.

Question. Pursuant to the provisions of the President's new national space policy, the Department of Commerce is responsible for land remote sensing.

In your opinion, is land remote sensing the only area of commercial space policy for which the Department of Commerce is specifically responsible? What other areas of space policy is the Department involved with?

Answer. The U.S. Department of Commerce has specific responsibility in a number of areas related to commercial space policy in addition to land remote sensing, which involves the National Oceanic and Atmospheric Administration. The following agencies of the Department has the responsibilities related to commercial space policy: (1) the National Telecommunications and Information Administration is responsible for domestic and international satellite telecommunications policy and radio-frequency management; (2) the International Trade Administration is responsible for trade policy and promotion; (3) the Patent and Trademark Office and the Office of Productivity and Technical Innovation are responsible for patent processing and policy; (4) the Office of Productivity and Technical Innovation is involved in the formulation of non-strategic technology transfer policy; (5) the Bureau of Export Administration is responsible for export controls; and (6) the National Bureau of Standards is involved in utilization policy for the proposed commercially developed space facility.

Question. What is the current role of the Office of Commercial Space Programs in the Department of Commerce? Is this Office statutorily based? How many staff people are detailed to this Office, and from which offices are they detailed?

Answer. The current role of the Office of Commercial Space Programs in the U.S. Department of Commerce is to coordinate the Department's diverse responsibilities with respect to space commerce and commercial space policy.

The Office of Commercial Space Programs is not created by statute. However, it has been established pursuant to the U.S. Department of Commerce's organic authority to "foster, promote and develop the foreign and domestic commerce . . . of the United States."

There are seven full and part-time staff members detailed to the Office of Commercial Space Programs. Two staff members are detailed from the National Bureau of Standards, and one staff member is detailed from each of the following: Bureau of Export Administration, International Trade Administration, National Telecommunications and Information Administration, National Bureau of Standards, National Oceanic and Atmospheric Administration, and Office of Administration.

Question. Does the Department intend to submit legislation to create an Office of Commercial Space Programs in the Department of Commerce? Would it be the further intent of the Department to include such an Office under the proposed Under Secretary of Technology?

Answer. I am not aware of any intent to submit legislation to create an Office of Commercial Space Programs in the U.S. Department of Commerce.

If an Under Secretary for Science and Technology is established, the option of placing the Office of Commercial Space Programs under that Office might be considered.

Senator ROCKEFELLER. Mr. Frank DeGeorge, please.

We are very happy to welcome you, Mr. DeGeorge, to this meeting this morning, this hearing.

The Inspector General of the Department of Commerce obviously is a very fundamental position. The President has said that the Office of Inspector General is "our first line of defense in attacking fraud, waste and abuse."

You have been Deputy Inspector General since May of 1982 and have served as Acting Inspector General for the last several months.

You bring with you many years of financial management experience to the position. You have served with the Federal Government since 1971 in a variety of capacities, including Associate Deputy Administrator of the Veterans Administration, Principal Deputy Assistant Secretary of Energy for Conservation and Renewable Energy.

That is a very distinguished and long-time career in government, something which I very much respect.

I would welcome any comment that you would wish to make, Mr. DeGeorge.

Senator Sarbanes of Maryland has sent in a letter in very strong support of your confirmation, Mr. DeGeorge. He has worked with you for a long time and has very, very good things to say about you and urges our approval of your nomination.

That will be included in the record.

[The letter and biographical sketch follow:]

U.S. SENATE,
Washington, DC, March 23, 1988.

Hon. JOHN D. ROCKEFELLER IV,
Senate Commerce Committee,
Dirksen Senate Building, Washington, DC.

DEAR JAY: It is my understanding that Frank DeGeorge, an old friend of mine from Maryland, is going to be appearing before the Senate Commerce Committee on Friday, March 25, for confirmation as Inspector General of the Department of Commerce. I am writing to indicate my strong support of his confirmation.

It was my pleasure to work with Mr. DeGeorge when he was Associate Commissioner, and, later, Deputy Commissioner of the Social Security Administration in Baltimore. He is a thorough professional, having been a successful businessman before undertaking important management positions with the Social Security Administration in the early 1970's. Since then, his talents have been put to good use in a number of senior, responsible positions in the Department of Energy, Veterans Administration, and the Department of Commerce. He is superbly qualified to be Inspector General of Department of Commerce, and I wanted to add my own note of personnel endorsement.

I urge you to approve his nomination and to send his appointment to the floor of the Senate for its consideration.

With best regards.

Sincerely,

PAUL S. SARBANES, *U.S. Senator.*

ERNEST F. HOLLINGS SOUTH CAROLINA CHAIRMAN
DANIEL K. INOUYE HAWAII
WENDELL H. FORD KENTUCKY
DONALD W. RIEGLE JR. MICHIGAN
J. JAMES EXON NEBRASKA
ALBERT GORE JR. TENNESSEE
JOHN D. ROCKEFELLER IV WEST VIRGINIA
LLOYD BENTSEN TEXAS
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COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
WASHINGTON, DC 20510-6125

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

(If more space is needed, please use attached REMARKS sheet)

A. BIOGRAPHICAL DATA

1. Name: DeGeorge (Last) Francis (First) Donald (Other)

   Address: 3314 Marlbrough Way (Current residence)
   College Park, MD 20740

   Office of Inspector General
   U.S. Department of Commerce (Business)
   14th & Constitution, NW
   Washington, DC 20230

2. Position to which nominated: Inspector General

   Date of nomination: March 1, 1988

3. Date of birth: September (month) 18 (day) 1929 (year)

   Place of birth: Philadelphia, PA

4. Marital status: Married

   Full name of Spouse: Grace Schultz Gessinger DeGeorge

5. Names and ages of children:
   Deborah A. DeGeorge — April 1953 - 34
   Cynthia L. DeGeorge — June 1958 - 29
   Douglas F. DeGeorge — February 1960 - 28
   Pamela L. DeGeorge — February 1969 - 19

6. Education:

Institution	Dates attended	Degrees received	Dates of degrees
Rancocas Valley High School	1943-1947	H.S. Diploma	1947
LaSalle College	1947-1951	B.S.	1951
University of Delaware	1954-1956	(24 Semester Hrs; No Degree)	N/A

7. Employment record: List all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

   From / To / Name of employer / Address / Type of work

   See Attached Resume (Atch 1).

8. Government experience: List any experience in or direct association with Federal, State, or local governments including any advisory, consultative, honorary or other part-time service or positions.

   See 7 above (Atch 1).

10. Memberships: List all memberships and offices held in professional, fraternal, scholarly, civic, charitable, and other organizations.

    Reserve Officers Association - Member

    American Legion - Member

11. Honors and awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, and any other special recognitions for outstanding service or achievement.

    Social & Rehabilitation Service Award of Appreciation - 1973

    Secretary of HEW Special Citation as Chairman of HEW Grant Appeal Board - 1974

    LaSalle College BETA ALPHA Accounting Association Award - 1974

    Department of HEW Distinguished Service Award (Highest Honor) - 1978

    Department of Energy Outstanding Service Award - 1980

    Department of Energy Special Achievement Award - 1981

    Department of Commerce Gold Medal Award (Highest Honor) - 1985

STATEMENT OF FRANK DeGEORGE

Mr. DEGEORGE. Thank you, Mr. Chairman. Just a couple of points, if I might.

The IG has a unique job in the Federal Government. Although he is appointed by the President, he truly has two bosses: the Secretary of Commerce as well as the Congress.

The IG Act specifically requires the office to be independent and specifically requires it to deal directly at the call of the Congress, of the House and Senate, and it requires that I, in effect, have the independence to go where I wish, to look at what I wish, and to report as I see fit.

I can honestly say in the last five years both as Deputy and in the last year as acting in the job that I have had absolutely no barriers placed in front of that requirement. It is probably the most fun job a guy can have, but it is also the most responsible.

I have to be the Department's critic, and I have to honestly look at its programs, but I have to also be responsible to the Senate and the House when they have specific questions.

At times, it is a somewhat difficult line to walk, but I try to keep in mind the basic philosophy that they placed me there because they felt that they had the confidence that I would make the calls as directly as I could. That does not always make friends, sir, as you can imagine, but it is what we are charged to do.

Senator ROCKEFELLER. Mr. DeGeorge, do you have family members with you? If so, we would like to meet them.

Mr. DEGEORGE. Yes, sir, Mr. Chairman. My wife, Grace, in the second row in the appropriate blue suit. My children are in school, and I have one daughter in the hospital right now, sir.

Senator ROCKEFELLER. Very good.

You also served in the Marine Corps, did you not?

Mr. DEGEORGE. Yes, sir, I did, during the Korean War. I have not gone camping since.

Senator ROCKEFELLER. Is there a status report that you can give us on the proposal to consolidate NOAA?

Mr. DEGEORGE. Yes, sir. This should come more in detail from the Department, but as late as yesterday the Department basicaily reached a conclusion that will be satisfactory to the Chairman. I know that Senator Hollings is very concerned about the issue.

We had a meeting yesterday to discuss the consolidation, and I think we found a resolution that will meet my concerns and those of the Department and the Senators.

So I do not feel it is an open issue, but I would prefer that the Department in the administrative sense release the details of that, sir.

Senator ROCKEFELLER. All right.

How important to the auditing process is the cooperation of the individual program managers, and what methods or practices will you use to encourage a maximum level of cooperation from them?

Mr. DEGEORGE. We try to deal with it three ways, sir.

Up front, we discuss with the operating agency heads each year our operating plan in quite specific detail. We try to accommodate any requests that they might have, if they feel they have program

concerns. You would be surprised that a number of them do want to use this office to prod their own staff to look at the issues.

After that, we basically have an entrance conference with the particular program manager to discuss where we are going and what we want to look for in the availability of data.

They have all these concerns about coordinating and understanding what our real questions are. A lot of times, they will have subtly raised eyebrows about whether or not we really should be there looking, but that is honest.

We then basically discuss with them the preliminary draft and let them comment on it so that there are no surprises and that they know what is happening. We take their comments and issue a final draft report.

So at the beginning during the planning stage, which is not directed by anyone except our office, during the audit and during the draft portion of the audit we discuss the issues.

Any comments they wish to include in the audit report, regardless of how much they agree or disagree, are always included unabridged. That is when we do what we call management audits of the operating agencies' responsibilities, in the economy and efficiency sense.

When we deal externally with grantees, borrowers, banks, some loan guarantees, we also make comments available to everyone involved. We do this to be very candid, as much for our own protection as theirs. We would like to make sure that if they strongly disagree with us that we get it out on the table and get it resolved, amend the reports if necessary.

The best way for us to sell our product, sir, is, one, not to be a surprise; two, to co-opt, if I can use that term. We need to convince the person being audited that this is a responsible approach. I would rather do that than have a debate after the report is issued.

Senator ROCKEFELLER. When the President says that you would be the first line against waste, fraud and abuse, how would you elaborate on that responsibility in your approach to it?

Mr. DEGEORGE. The office and my own personal view is that we have to have two areas of endeavor. One is fraud, waste and abuse. This is the responsibility of everyone in the government, the welfare recipients improperly collecting claims, the borrower who has to repay a grant or a loan, or anyone who is improperly using monies.

Externally, we have dealt quite aggressively in reviewing programs over the last three or four years in the Department that have not gotten the attention they should have gotten in the past; third parties in grants, loans and cooperative agreements.

Internally, I see the job as a very, very positive force. The analogy I would give you would be the industrial, private sector. If we can be considered by the agency head as his own internal auditors, to look at problems he considers important or to accept what we give him as not being adverse or adversary in the sense that we are trying to get anyone, that we are truly trying to improve the management of the agency, then I think that is more productive.

That is where one can make a bigger contribution, whether it is utilization of manpower, or if it is in the process used to make decisions in trade licensing, or if it is the review of a specific loan.

Senator ROCKEFELLER. The matter of Department of Commerce contracts, do you have thoughts on what it might be that you can do to insure better management if you think that is necessary of those contracts?

Mr. DEGEORGE. Yes. I can give you a couple of examples, sir. Remember, we had a considerable debate about a year ago with a member of your committee, Senator Kasten, over a Sony contract for the Patent Trademark Office. There were a lot of committee concerns about the proper award of that contract to a Japanese firm.

I think we resolved to the satisfaction of committee and the Congress, House and Senate, as well as the Department, that, in effect, that contract was properly made.

Quite candidly, sir, the debate was over whether we wanted to let another technology for optical storage devices developed in the patent trademark systems redesign be a capability that went to a Japanese firm on the first significant procurement.

We were asked to step in and make a judgment whether the contract was done correctly. We did, and in that case we were certain that it was. There were two domestic manufacturers who did not bid in time and did not make the necessary R&D investments, and as a result were not competitive.

Secretary Baldrige felt quite strongly at that point in time that he had to be in the position, given the delicate relations with the Japanese, that if we wanted to get free access there, then we had to have free access here. We played that assessment role.

A subsequent contract in which we were totally immersed because of a specific complaint was the next generation radar for the weather bureau. We reviewed the contractual process within the Department and the agency. We concluded that there was more work to be done before that procurement was awarded.

It is not only procurements perse but the tremendously sophisticated systems work that the Department of Commerce is doing in the National Bureau of Standards, the Census, the Patent and Trademark that require review. A good third of our budget in the Department is spent for large systems procurements.

It is not only procurements but the installation and management of those programs that we seem to manage poorly in the Federal Government. We have to learn how to do better.

With these types of technologies it is important to have a very sophisticated technical systems capability and procurement capability, which we do have in our IG shop. We think we have contributed to the Department's better management of those programs.

Senator ROCKEFELLER. Senator Exon, do you have any questions?

Senator EXON. Yes, Mr. Chairman.

I strongly support your nomination, Mr. DeGeorge. I have looked at your background, and I am delighted we have people with your experience coming into these very important positions.

The Inspector General concept, I think, has been a very good one, although it is a fairly recent development in the processes of government.

I suspect, and I am wondering if you could verify this, that probably the Inspector General in our various agencies of government,

above everything else, is a deterrent to all employees. There he or she is, and they are looking over our shoulder.

I think, above everything else, that is a strong point in the Inspector General's duties and the positive effect it has on trying to improve efficiencies of government.

I would like to have you answer that question and then follow up by advising the committee, based on your experience, if there is any additional authority that is needed or any changes that you would suggest in this act to make it more workable; or, in your opinion, is it now functioning well and we should best go back to the old axiom of "if it ain't broke don't fix it?"

Mr. DEGEORGE. In answer to the first portion of your question, Senator, I think there is a delicate balance.

There was an article in the newspaper here a while ago that there was a gentleman arrested in our office by the FBI. Since then, not a lot of people want to come see me.

But the sense of presence, the sense of someone there, I think, works both ways.

We have the hotline concept in the Department which allows folks to inform us anonymously and with protection about problems. People and employees were to to find an office that they can deal with privately to discuss and get information out that they may not feel they can pass up the administrative command through the bureaucracy.

This is the most positive thing that happens in the office, and we do get a great number of concerns of the Department out in that sense.

There is a delicate balance. I do not particularly want to be the Department's boogeyman. I really do not want to be sitting up there as someone whom everyone feels when he walks in the office that they should wonder why I am there.

The facts of life are that I am the only secretarial officer who is truly independent. That means, in effect, in addition to serving Mr. Verity, I serve the interest of the Federal Government in looking at what is going on.

In doing that, you require a delicate balance. On one hand, you want to be responsive to the needs of the Department. You have to, unfortunately, make a lot of personal judgments of what issues you think personally are important to look at and to deal with.

The other side of that coin is that you have to do that in cooperation with the agency heads, or nothing works. They provide most of the data. They provide a lot of the staff work. They provide the sense that we are working together to solve the problems.

If you cannot create that balance, if they feel that you are just an adversary, then you lose. So you do walk a very delicate line.

Specifically on improvements of the IG Act with S. 908, the Senate has passed a bill that will go to the House that I think accurately deals with the remaining issues which concern me, sir.

I will not point out that it raises to all Inspectors General level IV Appointments and things of that nature, which really would not concern me.

We do have the power of subpoena, as you know, and that is a very strong weapon in this war.

I think S. 908 deals very admirably with any remaining concerns I have, sir.

Senator EXON. I think that that power of subpoena is one that goes back to the deterrent factor. I mean, I think if they know there is somebody there who can subpoena them, it is a deterrent if someone is tempted to do something not in the interest of the Department that they work for.

One last question, Mr. Chairman.

I have always been somewhat worried about the hotline concept. I think it is a good one, and I think it is there. I have always been somewhat concerned that the hotline might be misused from time to time by one employee who is disgruntled or has a grudge against some other employee.

Let's say I work for the Department, and my former friend, Governor Rockefeller, sold me some dirty coal that is causing acid rain and all those kinds of things. So I call up and tell you something about Senator Rockefeller, an employee that works across the hall from me, to try and cause him problems or stir the waters.

You must have some of that.

Is it much of a problem?

Mr. DEGEORGE. No, sir. There are frivolous complaints. I do not mean to give you a simple answer. Those areas, however, which are personnel practices, EEO complaints etc. and deal basically with the person's performance on the job, we traditionally and routinely turn over to the operating agency. We are criminal investigators. We are not interested in a person's personnel file or his promotion problems. There are strong administrative processes that exist outside the IG.

You have EEO officers, you have the administrative personnel departments, you have the operating agencies. Those type of complaints, if they seem to have any merit and they are personnel issues, we send to them.

Senator EXON. But you do get calls along that line.

Mr. DEGEORGE. Yes.

Senator EXON. Because they think you are more than a criminal investigative arm.

Mr. DEGEORGE. I think that is fair, but I think—we have got some bright, capable people in those areas who can sort those things out and turn them over to the right people. I would rather provide an opportunity for someone to tell us something than not let them have an access point at least through the IG's hotline.

Senator EXON. Let's talk about the criminal part of it. I did not mean to limit my question to must petty things. I was wondering if—do you very often have people alleging criminal activities for selfish reasons rather than for the good of the government?

Mr. DEGEORGE. We have a number of complaints that turn into criminal prosecutions. I do not know that the average government employee—and our hotline also goes to the public—recognizes a criminal action necessarily when they see it. They generally recognize what they think is something wrong, where someone is personally benefitting, or where this contractor or that grantee or that individual is benefitting?

I think the American public and Federal employees generally know when they see something they consider unfair. Now, they in

many cases do turn into criminal prosecutions. But you do not normally get someone calling and saying I really think this guy is a crook other than generically.

Senator EXON. Thank you, Mr. DeGeorge.

Thank you, Mr. Chairman.

Mr. DEGEORGE. Thank you, sir.

Senator ROCKEFELLER. Thank you, Senator Exon.

Mr. DeGeorge, I do not have any further questions for you. As you know—well, I might say to all who are here, before the nominees ever appear before a hearing, there are extensive FBI interviews and background checks, and those have all been reviewed by me and found to be entirely satisfactory.

Your own particular nomination, of course, is sequential.

Mr. DEGEORGE. Yes, sir.

Senator ROCKEFELLER. And we will be having a markup next Tuesday with respect to Mr. Stanley and Mr. Brumley, and those two will, if confirmed, as I suspect they will be, that will be the end of their line. You have to go on for a period of comment of twenty days to the Governmental Affairs Committee. I do not anticipate any difficulties there, but it is a little bit different than the other two.

Mr. DEGEORGE. Yes, sir, I understand the process.

Senator ROCKEFELLER. Which you understand.

I thank you for coming.

I thank all of you for being here. I will eagerly and gladly support your nomination also, Mr. DeGeorge, and admire all three of you gentlemen and the work that you have done and the work that I know that you will do.

Mr. DEGEORGE. Thank you, sir.

Senator ROCKEFELLER. This hearing stands adjourned.

[Whereupon, at 10:30 a.m., the committee recessed subject to the call of the Chair.]

ROBERT L. PETTIT, TO BE ASSOCIATE DEPUTY SECRETARY, AND EDWARD R. HAMBERGER, TO BE ASSISTANT SECRETARY FOR GOVERNMENTAL AFFAIRS, DEPARTMENT OF TRANSPORTATION

MONDAY, MARCH 28, 1988

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION,
Washington, DC.

The committee met at 9:30 a.m. in room SR-253, Russell Senate Office Building, Hon. John Breaux presiding.

Staff members assigned to this hearing: Sheryl Webber Washington, professional staff member and Macky Ayers, minority professional staff member.

OPENING STATEMENT BY SENATOR BREAUX

Senator BREAUX. The committee will please come to order. This morning the Committee on Commerce, Science, and Transportation convenes to hear testimony from two individuals who have been nominated by the President to serve in two high level positions within the Department of Transportation.

We will first consider the nomination of Robert L. Pettit to be Associate Deputy Secretary of Transportation. The Associate Deputy Secretary serves as a senior advisor to the Secretary and to the Deputy Secretary, as well as an arbiter for issues that cross all modes of transportation.

Mr. Pettit was previously a partner in the Washington, D.C., law firm of Wiley, Rein, and Fielding. Between 1982 and 1986 he worked in the Federal Communications Commission for Commissioner Mimi Dawson. Prior to that, Mr. Pettit was an attorney for four years with the law firm of Fletcher, Heald, and Hildreth.

In addition to his work experience, Mr. Pettit received a bachelor of arts degree from the University of Missouri and a juris doctor degree from Duke University.

The second nomination under consideration this morning will be that of Edward R. Hamberger to be Assistant Secretary of Transportation for Governmental Affairs. The Assistant Secretary for Governmental Affairs is the principal person responsible for maintaining liaison with the Congress, state and local governments, and public and private interest groups with respect to DOT programs and legislative initiatives.

For the last seven years, Mr. Hamberger has been a partner in the Washington, D.C., law firm of Lipsen, Hamberger, Whitten & Hamberger. He served for 15 months as counsel and staff director of the House of Representatives Republican Policy Committee.

Prior to that, Mr. Hamberger served as general counsel to the National Transportation Policy Study Commission, as a special assistant to both Congressman Bud Shuster and to Senator Hugh Scott.

I am pleased to be chairing today's hearing. The challenge of assisting the Secretary and Deputy Secretary of Transportation and of working with the Congress, as well as state and local governments on DOT's initiatives indeed requires qualified and dedicated individuals.

Mr. Pettit and Mr. Hamberger come to the committee with very high recommendations.

Mr. Pettit, a native of Springfield, Missouri, will be introduced by our ranking member of the Commerce Committee. Senator Danforth.

OPENING STATEMENT BY SENATOR DANFORTH

Senator DANFORTH. Mr. Chairman, thank you very much. I am delighted to present to the committee Robert L. Pettit for nomination as Associate Deputy Secretary of Transportation.

Mr. Chairman, as you pointed out, Bob Pettit was born in Springfield, Missouri. However, he grew up in Ava, pronounced by many in our state "Ae-vey," a beautiful part of Missouri in the Ozarks. He went to the University of Missouri, where he had a distinguished career, elected to Phi Beta Kappa, and went on to Duke University Law School.

He has practiced law here in the District of Columbia and has worked with Mimi Dawson, a fellow Missourian, in the Federal Communications Commission.

He is clearly well qualified for this position and I am honored to present him to the committee.

Senator BREAUX. Thank you, Senator Danforth.

I would also point out that Bob Pettit is a well known person in Louisiana, but I am not sure, unless you are over 6 foot 8, whether we are talking about the same one that we sent to Missouri and St. Louis a couple of years back.

[The biographical sketch follows:]

ERNEST F. HOLLINGS, SOUTH CAROLINA, CHAIRMAN
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United States Senate
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
WASHINGTON, DC 20510-6125

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

(If more space is needed, please use attached REMARKS sheet)

A. BIOGRAPHICAL DATA

1. Name: Pettit (Last) Robert (First) L. (Other)

Address: 5434 30th Street, NW (Current residence) 400 7th Street, SW (Business)

Washington, DC 20015 Washington, DC 20590

2. Position to which nominated: Associate Deputy Secretary of Transportation Date of nomination:

3. Date of birth: August (month) 14, (day) 1952 (year) Place of birth: Springfield, Missouri

4. Marital status: married Full name of Spouse: Jane Marie Hunger Pettit

5. Names and ages of children: William Christopher Pettit 4 years

Sara Susan Pettit 15 months

6. Education:

Institution	Dates attended	Degrees received	Dates of degrees
University of Missouri	1970-1974	B.A.	1974
Duke University	1974-1977	J.D.	1977

7. Employment record. List all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

From	To	Name of employer	Address	Type of work
9/86	12/87	Wiley, Rein & Fielding Richard E. Wiley	Washington, DC	law firm
9/82	8/86	Federal Communications Com'n Hon. Mimi Weyforth Dawson	Washington, DC	federal agency
10/78	9/82	Fletcher, Heald & Hildreth Edward W. Hummers, Jr.	Washington, DC	law firm
9/77	10/78	Federal Communications Com'n Henry L. Baumann	Washington, DC	federal agency
5/76	8/76	Federal Communications Com'n Richard E. Wiley	Washington, DC	federal agency

8. Government experience: List any experience in or direct association with Federal, State, or local governments including any advisory, consultative, honorary or other part-time service or positions.

See above

9. Political affiliations activities: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last 10 years.

Volunteer - Bush for President Committee, 1987

10. Memberships: List all memberships and offices held in professional, fraternal, scholarly, civic, charitable, and other organizations.

American Bar Association

D. C. Bar

Federal Communications Bar Association

(Luncheons Committee Chairman, 1979-80)

11. Honors and awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Phi Beta Kappa

Phi Kappa Phi

University Scholar (U. of Missouri)

STATEMENT OF ROBERT L. PETTIT

Mr. PETTIT. I was much taller then, sir.

Senator BREAUX. Well, Bob, we are pleased to have you, and we are happy to receive any opening comments that you might have.

Mr. PETTIT. Thank you, Mr. Chairman.

I have a prepared statement which, with your permission, I will submit for the record.

Senator BREAUX. Without objection, we will make it part of our record.

Mr. PETTIT. If I may, though, I would very much like to thank the Chairman of the Committee for these prompt hearings—it is very much appreciated—and thank Senator Danforth as well for being here and for his very kind remarks.

It is a great honor to be nominated by the President to be Associate Deputy Secretary and to be considered by this Committee. If confirmed, it will be a great privilege as well to work with Jim Burnley and Mimi Dawson—Jim, whom I have gotten to know and respect over the course of the last few months and Mimi Dawson whom I have known, as Senator Danforth said, for some time and have worked with in the past.

The Secretary has charted a very aggressive agenda for the course of next year. It includes the maintenance of safety in all modes of transportation, FAA restructuring, which he had a chance to talk to the Committee about last week, ODS reform, and drug interdiction efforts.

All of these things are very important, all of them which we will work very hard on at DOT. If confirmed, Mr. Chairman, I look forward to working with Jim and Mimi at the Department and look forward to working with the Committee and the Congress on these vital transportation issues.

Thank you, sir.

Senator BREAUX. Mr. Pettit, what other vacancies—of course we are going to do Ed Hamberger next. What other vacancies do we have over at DOT? Do we have the Federal Highway Administrator?

Mr. PETTIT. There is the Federal Highway Administrator. I do not know if the hearing has been set. Bob Farris has been nominated for that position. He is serving currently as Deputy.

Other than that, I believe the Assistant Secretary for Public Affairs position is open. I am not aware of any other presidential appointments that are open there.

Senator BREAUX. Well, there is still time left on the agenda. I know the President keeps referring to that, that things need to be done down at DOT that are critically important to this Committee and in particular there are a number of very challenging directions and directives with regard to safety and programs that come under the jurisdiction of the Secretary which you are going to be involved in carrying out.

So we wish you well, and I think that your qualifications and your background certainly indicate a person who can handle those tasks. And we look forward to working with you in that capacity.

The committee has prepared some questions, some of which you have responded to, others of which we will ask you to submit your written responses for the committee's consideration.

Other than that, we will take this up on the floor as soon as feasible under the direction of the chairman. With that, Bob, you will be excused.

[The statement and questions and answers follow:]

STATEMENT OF ROBERT L. PETTIT

Mr. Chairman, it is indeed a pleasure for me to have the opportunity to appear today before the members of the Senate Committee on Commerce, Science, and Transportation.

I am deeply honored to have been nominated by the President to serve as Associate Deputy Secretary of the Department of Transportation. Having worked in various capacities in the Federal government, I feel that it is a genuine privilege to be in government service. My government experience has led me to understand the importance and necessity of developing and administering sound public policy.

If confirmed, it will be a special privilege as well to serve a Secretary at DOT with the foresight, intellect and energy that Jim Burnley has brought to that position. As the Committee knows, our transportation system is a vital part of the nation's economy—nearly one-fourth of our gross national product—and affects virtually every American everyday. I am both impressed and challenged by the broad sweep of the Department's responsibilities.

Secretary Burnley's program initiatives have a significant impact on our Nation's transportation systems: the Department's safety programs, FAA reform, ODS reform, critical Coast Guard interdiction efforts and economic deregulation, to name a few. The Associate Deputy Secretary can provide the direct, top-level supervision required in managing such critical program initiatives and bringing them to fruition.

The Associate Deputy Secretary is the senior advisor to the Secretary and Deputy Secretary on major policy issues and programs at the Department. In carrying out these responsibilities, the Associate Deputy must take the lead in managing issues that involve various modal administrations on behalf of the Secretary. Having practiced law in both the public and private sectors, I feel equipped to fill the role of senior advisor, and having previously worked with Deputy Secretary Dawson for four years and having had the opportunity to observe Secretary Burnley the past three months, I am fully aware of the importance they attach to such a role.

The Associate Deputy Secretary also represents both the Administration and the Department with senior officials of other Federal agencies, State and local governments, foreign governments and representatives of public interest groups. As such, the Associate Deputy acts as the Secretary's personal representative and is expected to represent the Department's decisions and views.

With your support and approval, I look forward to the opportunity to serve the people of this country as Associate Deputy Secretary of Transportation. Although there is only a relatively short time left in this Administration, there is much to be done, and Secretary Burnley has charted an aggressive agenda. If confirmed, I look forward to working with the Secretary, the Deputy Secretary and the Congress on the transportation policies that vitally affect the lives of us all.

Thank you for the opportunity to be here today. I would be happy to answer any questions you might have.

PREHEARING QUESTIONS OF THE CHAIRMAN AND THE ANSWERS

Question. How does your employment with the Federal Communications Commission and as an attorney in private practice make you qualified for this position?

Response. I believe that my experience as an attorney in the public and private sectors will enable me to work effectively as Associate Deputy Secretary. I have worked closely with the Congress and the Executive Branch, and this has given me a balanced view of the give-and-take in our government and the importance and mutual reliance of the Legislative and Executive Branches.

In particular, my service with the FCC was especially rewarding. I started at lower-level jobs and later earned a post as senior legal advisor to the talented FCC Commissioner Mimi Dawson, who is currently serving as Deputy Secretary of Transportation. In the rapidly changing communications field, I was called upon to give

advice and recommendations on issues affecting millions of Americans. It's surely a sobering experience. And it imposes upon you the duty to try to reach decisions that are in the best interests of the nation.

Private law practice, of course, has given me an understanding of the mechanics of legislation, administrative rulemaking and the judicial process—all of which will serve me well at the Department. However, practice has also given me an appreciation for the impact that federal regulation can have on individuals and businesses and a willingness to look at practical solutions.

I believe that my experiences in government and the private sector have prepared me to play a role in the top levels of the Department of Transportation.

Question. What do you consider to be the three most important accomplishments in your professional career?

Response. The three areas in which I consider I've made my most important accomplishments are:

One, my work with FCC Commissioner Dawson in formulating reasonable and workable communication policies. I believe I was able to balance the public's interest with the rights of individuals and private companies in the burgeoning communications field.

Two, in working with representing the interests of individuals and companies in my role as a private attorney.

And three, in effecting conflict resolution between and among competing groups and individuals. I enjoy most being able to mediate disputes, bring agreement out of conflict, and help individuals in the process.

Question. Please outline what your primary duties and priorities will be as Associate Deputy Secretary of the Department of Transportation?

Reponse. As associate Deputy Secretary, I would serve both in an advisory and active management capacity. I would be the senior advisor to the Secretary and the Deputy Secretary. Since there are key issues in the various modes, I would serve as the link to the Secretary and Deputy Secretary in determining importance and urgency. I would serve as arbiter and mediator for conflicts or disagreements among modes and offices.

Of course, the President's and Secretary's priorities will be my priorities. As the Secretary has indicated, the maintenance of transportation will be the Department's first priority. In aviation, this involves not only such areas as insuring air safety inspections, crew qualifications and controller standards, but also involves FAA structural issues as well. Other areas include improving vehicle occupant protection, placing the Department's new commercial drivers' license requirements into effect as quickly but as efficiently as possible, and strengthening safety regulations for commercial trucks.

Question. Over the last several years, Congress has passed regulatory reform legislation which has decreased the Federal government's role in regulating transportation. However, many argue that the cost-cutting practices associated with the intense level of competition fostered by deregulation have resulted in a decline in the margins of safety. How do you view your role as Associated Deputy Secretary in assessing the effects over the last several years of regulatory reform and whether additional deregulation is warranted?

Reponse. If confirmed, I would expect to play a significant day-to-day role in carrying out Secretary Burnley's top priority of assuring that the highest standards of safety are being met and in assessing the impact of deregulation. But I want to emphasize that when the Department talks about deregulation, it's talking about *economic* deregulation, not deregulation of safety standards. I hope to work to maintain safety as the top priority of the Department.

Posthearing Questions of the Chairman and the Answers

MOTOR CARRIER ADMINISTRATION

Question. How would you characterize the level of attention given to motor carrier issues within DOT, as compared to the rail, aviation and shipping industries, all of whom are represented by separate modal administrations (Federal Railroad Administration, Federal Aviation Administration, and Maritime Administration)?

Response. Motor carrier issues do receive a high level of attention at the Department as illustrated most recently by the appearance of Deputy Secretary Dawson March 16 to testify before the House Public Works Subcommittee on Surface Transportation on trucking deregulation and economic conditions in the motor carrier functions through a reorganization within the Federal Highway Administration

(FHWA) and the appointment of FHWA's Associate Administrator for Motor Carriers who serves as the focal point in DOT for contacts with the motor carrier industry on all motor carrier transportation matters. While I hope to have the opportunity to study S. 747 in detail, initially, it seems to me that a separate Motor Carrier Administration is not needed. It appears that the FHWA's new organization efficiently provides the Department with the perspective to address both motor carrier and interrelated issues, such as safety requirements, taxes, cost allocation, and highway investment.

FAA STRUCTURE

Question. As you know, the Aviation Subcommittee has been giving serious consideration to the Federal Aviation Administration's future structure, focusing primarily on the creation of an independent FAA. What is your view on the need for structural change in the FAA?

Response. While I am relatively new to this subject and want to study the issue in detail, I am nonetheless familiar with the Aviation Subcommittee's hearings on the subject of FAA restructuring and believe that the case has been made for action as soon as possible to undertake fundamental restructuring of the "hybird" or "tripartite" role of the FAA. As Secretary Burnley testified last week, there appears to be an inherent conflict of interest among the FAA's various responsibilities as industry service provider, promotional bureau and enforcement agency.

That is why it seems to make sense to me to structure the FAA in a way which avoids these conflicting roles so that, for example, the safety regulatory role of the present FAA could remain within the Executive Branch and accountable to a "line authority" that has a broader perspective than the aviation industry alone, while the FAA's "operational" role of providing air traffic services could be restructured in a way that avoids the funding procurement and personnel constraints that Secretary Burnley has identified.

Clearly, the Subcommittee's hearings on S. 1600 have been fruitful in advancing the discussion on these critical structural issues, and, if confirmed, I look forward to working with the Subcommittee, as well as Secretary Burnley and Administrator McArtor, on FAA restructuring.

NATIONAL RAIL PASSENGER SYSTEM

Question. What are your views related to Amtrak as an integral part of our transportation network?

Response. While I hope to become more fully versed in the relationship of Amtrak to the country's overall transportation needs, my initial reaction is that Amtrak represents a small percentage of intercity travel, it nonetheless represents a significant burden on federal taxpayers. In fact, I understand that travel on Amtrak represents less than one percent of total intercity passenger miles and that despite improved efficiency, the federal subsidy to Amtrak this year is nearly $600 million. Since this tradeoff cannot be ignored in the face of the budget deficit agreement, I look forward to exploring various options for Amtrak's future, including eventual privatization or de-federalization.

Senator BREAUX. And we would like to welcome up our good friend and colleague, a Congressman who I had the privilege of serving with on the Public Works and Transportation Committee over on the House side for many years, Congressman Bud Shuster from Pennsylvania, and Mr. Hamberger, who I referred to in my opening comments.

Bud, if you would like to make some comments for the record, we would be pleased to have them.

STATEMENT OF HON. BUD SHUSTER, U.S. REPRESENTATIVE FROM PENNSYLVANIA

Mr. SHUSTER. Thank you very much, Senator Breaux and Senator Danforth.

It is certainly my pleasure and honor to be here today to appear before your distinguished committee to present Edward R. Hamberger, a former staff member of mine and a native of Pennsylvania,

as the President's nominee for Assistant Secretary of Transportation for Governmental Affairs.

I have known Ed for nearly 20 years and as the ranking member of the Surface Transportation Subcommittee on the Public Works and Transportation Committee, we have worked closely in many, many different respects.

Ed worked as a member of my staff. Even more importantly, he served as counsel and staff member of the Republican Policy Committee, where he had dealings with virtually all of the Republican members of the House.

And even more importantly than that, he served as general counsel for the National Transportation Policy Study Commission, a commission created by the Congress which I had the privilege to chair, a commission on which we had six Republican members, six Democratic members, three each from the Senate and the House.

And I would like to emphasize before the committee that in his role as general counsel for the National Transportation Policy Commission Ed not only performed in an outstanding way, but he demonstrated time and time again his ability to deal on a bipartisan basis with both sides of the aisle.

In fact, I would emphasize that one of Ed's outstanding characteristics I think, in addition to his intelligence, his energy, and his experience, is his understanding of the needs of members of Congress.

And so, as one who has lived through a good many years of dealing with different Administrations, I take great comfort in the thought that Ed Hamberger will be down at the Department of Transportation, not only looking out, quite properly, for the interests of the Department and the Administration, but also understanding that it is a two-way street and that there are needs of members of Congress which have to be met.

So I am just thrilled to have the opportunity to present Ed to you today. He was a scholarship student at Georgetown, a graduate of Georgetown Law School, a contributing editor to the Georgetown Law Journal, a man of enormous capability.

So thank you very much for the privilege and the opportunity of presenting to this distinguished committee Edward R. Hamberger.

Senator BREAUX. Thank you very much, Congressman, for your comments.

I know you speak from practical knowledge about this bipartisanship. Congressman Shuster and I have had some great bipartisan battles over the years on the House side. And we thank you, Bud, for being here. We appreciate it.

Mr. Hamberger, if you have any comments you would like to make to the committee, we would be pleased to receive them.

I have a statement from Senator Heinz from Pennsylvania which would, without objection, be made part of our record along with your biographical sketch.

[The statement and biographical sketch follows:]

STATEMENT OF HON. JOHN HEINZ, U.S. SENATOR FROM PENNSYLVANIA

Mr. Chairman, it is my great pleasure to express my strong support for a fellow Pennsylvanian, Mr. Edward R. Hamberger, who has been nominated by the President to be the new Assistant Secretary of Transportation for Governmental Affairs.

As this Committee well knows, transportation issues are among the most complex and far-reaching confronting the Congress today. The task of formulationg rational and effective public policy on these issues requires a close working relationship between the Congress and the Executive Branch—a working relationship that is predicated on communication and bipartisan cooperation. In my judgment, Ed Hamberger is an individual uniquely qualified to play a role in that process as Assistant Secretary of Governmental Affairs. Ed has the qualifications I deem essential to a post like this one, on which so many people depend: Experience, knowledge, determination, and integrity.

Indeed, Ed's background has provided him with the tools he needs to not only ably serve the Secretary of Transportation, but to work closely with the Congress as a key player in the legislative and public policy processes.

Ed first came to Washington as an undergraduate scholarship student at the Georgetown University, and upon graduation there, he received both a masters and law degree from the same institution. In addition to his education there, he also studied at the Johns Hopkins School of Advanced International Studies in Italy.

He first gained legislative experience under the direction of my good friend, the former Senate Republican Leader, Hugh Scott of Pennsylvania. Ed rose quickly in the ranks and later became Senator Scott's Administrative Assistant after holding several other positions in the Senator's personal office and on the Senate Judiciary Committee.

From 1977 to 1979, he was General Counsel of the National Transportation Policy Study Commission, where he also served as the panel's Director of Public Participation. In these positions, Ed gained hands-on experience with transportation issues, including those involving administrative law, contracts and finance, and legal analysis of the regulatory matters.

From 1979 to 1980, Ed was back on the Hill, this time as Staff Director and Legal Counsel for the House Republican Policy Committee, which sets the official legislative policy for House Republicans.

Following those positions, he became a partner in the law firm of Lipsen, Hamberger, Whitten and Hamberger in January 1981, with almost 11 years of Legislative and Executive Branch service under his belt.

Seven years later, he returned to public service as Deputy Assistant Secretary of Transportation for Governmental Affairs. He earned a reputation within the Department for knowledgeable and effective leadership, and for working closely with members of the Congress and their staffs. He has the full confidence and trust of his boss, Transportation Secretary Jim Burnley, and the President has now appointed him Assistant Secretary for Governmental Affairs.

Mr. Chairman, Ed Hamberger is a young man in whom I also have trust and confidence. I am pleased to recommend that you and the full Senate approve his nomination with dispatch. Thank you very much.

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United States Senate

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

WASHINGTON, DC 20510-6125

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

(If more space is needed, please use attached REMARKS sheet)

A. BIOGRAPHICAL DATA

1. Name: Hamberger (Last) Edward (First) Ralph (Other)

   Address: 4908 Jamestown Road (Current residence) 400 7th St., S.W., Room 10408 (Business)

   Bethesda, Maryland 20816 Washington, D. C. 20590

2. Position to which nominated: Assistant Secretary for Governmental Affairs

   Date of nomination: March 14, 1988

3. Date of birth: 5 (month) 28 (day) 50 (year)

   Place of birth: Pottsville, Pa.

4. Marital status: Married

   Full name of Spouse: Susan Jane Armstrong Hamberger

5. Names and ages of children: Emily Jenness — September 10, 1985

   George Edward — September 22, 1987

6. Education:

Institution	Dates attended	Degrees received	Dates of degrees
Georgetown University Law School, Wash., D.C.	1973-12/75	J.D.	5/77
Georgetown University Graduate School	1972-1974	MSFS	1974
Georgetown University of Foreign Service	1968-1971	BSFS	8/73
John Hopkins School of Advanced International Studies	1971-1972	None consortium with Georgetown	
Wilson Joint Jr. & Sr. High School, Westlawn, Pa.	1962-1968		

7. Employment record: List all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

From	To	Name of employer	Address	Type of work
1/88	Present	Dept. of Transportation Office of the Secretary	400 7th St., S.W. Wash., D.C. 20590	Deputy Assistant Secretary
1/81	1/88	Lipsen, Hamberger, Whitten & Hamberger	1725 DeSales St. N.W. Wash., D.C.	Attorney
9/19/79	1/3/81	House Republican Policy Committee	U.S. House of Reps. Wash, D.C.	Counsel & Staff Director
8/1/79	9/19/79	Congressman Bud Shuster	U.S. House of Reps. Wash., D.C.	Special Assistant
1/3/77	7/31/79	National Transportation Policy Study Commission	Wash., D.C.	General Counsel & Dir., Public Part.
4/1/74	1/3/77	U.S. Senate - Senator Hugh Scott	U.S. Senate Wash., D.C.	Special Assistant
8/1/73	4/1/74	American Petroleum Institute	Wash., D.C.	Speechwriter
7/1/72	8/1/73	Dept. of Interior, Bureau of Land Mgt., D.C.		Speechwriter

8. Government experience: List any experience in or direct association with Federal, State, or local governments including any advisory, consultative, honorary or other part-time service or positions.

1. See job experience above.
2. Previous clients included State of New Mexico and trade associations whose members include state or local governments.
3. Member of Private Sector Advisory Panel in Infrastructure Financing appointed by U.S. Senate Budget Committee.

9. Political affiliations activities: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last 10 years

As Director of the House Republican Policy Committee in 1979-80, I worked with the House Republican Leadership and the Reagan-Bush Committee to articulate policies on a wide variety of issues. I have worked with the Republican National Committee, its affiliated organizations, and Republican Members of Congress as a private sector advocate. Most recently served as Corporate Steering Committee Chairman for the President's Dinner, working to raise contributions for the Republican House and Senate Campaign Committees.
In 1980 and 1984, I helped advance and implement activities in Pennsylvania for the Reagan-Bush Committee.
In addition to these Republican and Reagan-Bush activities, I served on the staff of Pennsylvania for Ford-Dole in 1976. During a six-week period in August and September 1979, when my employer, Bud Shuster, was associated with the John Connally campaign, I was a consultant to that Campaign. As evidenced above, this effort subsequently transferred to the Reagan Campaign. With respect to Congressional campaigns, I have served on dozens of steering committees for various Republican Candidates and Members. These include: Bob Michel, Trent Lott, Dick Cheney, Bob Dole, Alan Simpson, Chuck Grassley, Steve Symms, John Heinz, Warren Rudman, Bud Shuster, Arlen Stangeland, Joe Skeen, Bill Lowery, Curt Weldon, Hal Rogers, Bill Schuette, Don Ritter, Jim Coyne, and Larry Combest.

10. Memberships: List all memberships and offices held in professional, fraternal, scholarly, civic, charitable, and other organizations.

American Bar Association

Pennsylvania Bar Association

Transportation Research Forum

Georgetown University Alumni Association

Capitol Hill Club

Chevy Chase Club

Friends of Smithsonian Institute

11. Honors and awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Georgetown University Scholarship - 1963 - 72

Outstanding Service Award, Bureau of Land Management - 1973

Georgetown Law Journal

Outstanding Young Men of America - 1978

STATEMENT OF EDWARD R. HAMBERGER

Mr. HAMBERGER. Thank you, Mr. Chairman.

And before Mr. Shuster leaves, I would like to thank him for making a special trip down here this morning, and to echo Bob Pettit's comments thanking you, Mr. Chairman, for holding this hearing this morning.

I am very pleased to appear before the Committee as the President's nominee to be Assistant Secretary for Governmental Affairs of the Department of Transportation. I believe that this is a particularly important time for the Department and its legislative activities as we work with the Congress to provide the American people with a safe and efficient transportation system that meets both their economic and social needs.

Although we face a shortened legislative season, the agenda is still substantial. Continued efforts to enhance transportation safety in all modes, as well as critical funding choices, will command the Department's attention in the remaining months of this session. If confirmed, I will apply my skills and energies to that effort.

I am truly excited about the challenges that this job presents. I would like to briefly outline why I believe I am qualified and prepared to fulfil its demanding responsibilities.

As the more detailed statement of my background indicates, I have spent my entire professional career in the legislative or executive branches of the Federal government. I believe that my long association with the Congress equips me with the tools to do the job.

My experience working for Senator Hugh Scott when he was Republican leader in the Senate and my term as staff director and counsel for the House Republican Policy Committee provided me with a unique vantage point to learn, understand, and appreciate the legislative process and its role in the formation of national policy.

Those years gave me a full understanding of the importance of communication between the executive and legislative branches, as well as an appreciation of the need, as Congressman Shuster indicated, for bipartisan cooperation and interaction.

I believe my years working for the Policy Study Commission allowed me to work with a broad cross-section of transportation issues, including safety, funding needs and mechanisms, and economic regulation.

Since joining the Department, I have closely worked with Secretary Burnley and I know first-hand his belief that we must make full use of the remaining time in this Administration and Congressional session. I know the emphasis and share the emphasis that he places on consultation and communication with all members of Congress and their staffs, and that this communication is key to effective action on transportation issues.

I feel it is critical that we, in a large Department like DOT, whose programs affect such a broad constituency, provide Senators and Representatives with quick responses to their requests for information or for technical or programmatic assistance, and that we make sure that such assistance is accurate and reliable.

Moreover, we must be alert to the opportunity to provide this information even before we are asked.

In closing, Mr. Chairman, let me thank you again for the opportunity to explore my background with the committee and for your expeditious consideration of my nomination. I am now of course happy to answer any questions you have at this time.

Senator BREAUX. Thank you very much for your statement.

I want to recognize and welcome the members of the families of both our nominees who are here in the audience this morning. We are pleased also to have them watching the progress of these nominations as they move through the Congress.

My only comment, Ed, would be that I think, and you know from your background and where you have been, that part of your responsibility is letting members of Congress know what is going on with regard to Departmental decisions and activities of the Department, particularly as they affect our committee jurisdiction and as they affect our particular states when they are involved.

I have had an unfortunate situation with DOT in the last year finding out about a lot of things that were being done through reading the newspapers about it. And I do not think any Senator or House member appreciates that, when it is very easy to pick up the phone and to let us know what is going on and what is happening.

And I am speaking of the decision by DOT to cut off the highway funds to the state of Louisiana. That is not something that I think anyone appreciates finding out about through the newspaper.

It is something that those of us who are on the committee and have been on it for many years need to be involved in. And that is just the way things need to work, with better coordination. That is your area, and the incident that I am speaking of did not happen on your watch, but with a previous group of folks.

So that is the thing that I would only caution you to make sure does not happen.

Do any of my colleagues have additional comments on this nomination?

Senator EXON. I have no comments or questions, Mr. Chairman. Thank you.

Senator BREAUX. Mr. Hamberger, we have some questions that have been prepared, again some of which you have responded to already. Others, we would like you to respond to the committee, so other members would have the benefit of those comments.

Other than that, we look forward to working with you. I know that you will be able to do an outstanding job in the service of the Department of Transportation and look forward to working with you.

Mr. HAMBERGER. Thank you, Mr. Chairman. I will keep your thoughts right up front.

Senator BREAUX. With that, we have completed the work of the committee this morning and this committee will stand in adjournment until further call of the Chair.

[Whereupon, at 9:52 a.m., the committee was adjourned.]

[The following information was subsequently received for the record:]

PREHEARING QUESTIONS OF THE CHAIRMAN AND THE ANSWERS

QUALIFICATIONS AND BACKGROUND

Question. You have served as a special assistant to a U.S. Senator, general counsel for a transportation study commission and an attorney in private practice. How do these and your other past experiences qualify you for the position of Assistant Secretary of Transportation?

Response. My experiences have afforded me the opportunity to view government at work from within and from a distance even while involved with some of its processes. It has given me a balanced, objective panorama of how our system works, what it takes to make it work, and—specifically—the ever-important but always changing role transportation plays in our governmental operations and our Nation's economy.

I've been privileged to work for a member of the Leadership in both the Senate and House. As a staffer, I have learned the nitty-gritty of dealing with Members of Congress and other staff, lobbyists, public and private figures, and a range of constituencies. as counsel and staff director for the House Republican Policy Committee, I learned first hand the intricacies of Parliamentary maneuvering and the need for bipartisan cooperation to achieve one's goals.

Beyond this important experience on the Hill, I served as general counsel for the National Transportation Policy Study Commission. This Commission attempted—how successfully only time will reveal—to forcast transportation needs throught the year 2000 and develop policies to meet projected needs. This effort has prepared me for the substantive challenges of dealing with the wide ranging responsibilities of the job of Assistant Secretary.

In private practice, I used all I'd learned in government to serve a number of corporate and individual clients. I feel I brought to them a better understanding of our government in addition to serving their needs. for my part, it emphasized the need for decision makers in Washington to talk—but especially to listen—to views of state and local governments and private sector spokesmen before making policy judgments.

The amalgam of these experiences, I believe, equips me to work with the necessary knowledge, organizational and communications skills so essential as Assistant Secretary for Transportation Governmental Affairs.

POLICY ROLE AND RESPONSIBILITIES

Question. What role do you hope to play as Assistant Secretary of Transportation for Governmental Affairs in the formulation of transportation policy? What will be your basic responsibilities in this capacity and what do you hope to accomplish, if confirmed?

Response. With only nine months left in the Administration, I believe it's important to try to develop a consensus on major transportation programs or issues that need implementing quickly. I, of course, would be advocating the Administration's policies and objectives, but always within the context of the give and take of the legislative process. The transportation industry is replete with examples of what can be accomplished when it's necessary—examples such as rail or airline deregulation. These reforms show that agreement can be reached on issues of paramount national interest.

As Assistant Secretary for Governmental Affairs, I would work closely with the Congress, its Members and their committee and personal staffs, and with interest groups involved in specific issues. Communication—which can too often be garbled or fumbled—is essential in meeting our many transportation challenges. I would keep open all lines of communication at all times.

I would hope to accomplish a sense of purpose, followed by a sense of achievement, in bringing to fruition the programs or resolving problems that affect our citizens in various phases of our transportation system.

Question. Are there any issues within the field of transportation which you would like to establish as high priority areas for working with the Congress, and State and local governments by the Office of Governmental Affairs?

Response. Important transportation issues abound. In setting priorities, I believe that the two most important I'd select involve Federal, State and local governments in a number of different ways. I believe each jurisdiction is affected and each has a stake in meeting successfully the challenges of each issue.

One, drugs. Paying lip service to the case of fighting drugs and their abuses is—as we all recognize—far easier than eradicating this evil. Yet, there can be no doubt that the overwhelming majority of Americans want this potential danger eliminated

from our transportation system. I would expect to work with the Congress, as well as State and local officials, to cooperate in producing the laws, meeting the court tests, and providing the tools to produce a drug-free transportation system.

Two, air safety. While safety is vital in all forms of transportation, the issue of air safety is overriding in the minds of the traveling pubic. Deregulation, with the tremendous benefits it has brought, has added to the demands on the air traffic system. It is clear that we need to unleash this system from the constraints of the Federal budget, procurement, and personnel processes. At the same time, we must insure that the safety oversight of the system is not compromised. This means that the inherent conflict in asking the same agency that provides services to the aviation industry to also regulate that industry must be addressed.

LICENSING STANDARDS FOR COMMERCIAL MOTOR VEHICLE DRIVERS

Question. The Department of Transportation held four public forums in four different regions during January, 1988, to discuss its notice of proposed rulemaking on new testing and licensing standards for commercial motor vehicle drivers. What is your assessment of this and other efforts to inform and solicit comments from the States that over 5 million truck and bus drivers affected by this major safety programs?

Response. The four public forums on the proposed commercial driver testing and licensing standards were held in Washington, D.C., Atlanta, St. Louis and Los Angeles, from January 19th to the 25th of this year. We believe they provided a unique opportunity for a variety of interested parties to come together and make their views known on these important issues.

A number of helpful comments on the major aspects of the implementation of the commercial drivers licensing program were received through these public forums. Two specific areas of discussion included the three driver testing alternatives and the Commercial Drivers License Information System. Approximately 500 people attended the forums and 75 witnesses testified, representing safety groups, states and different sectors of the trucking industry.

Since the forums, the Department and Congress have received numerous comments from farmers, firefighters and others who are seeking various exemptions from the CDL requirements. In an attempt to answer these concerns, the Department last week announced its intention to publish a Notice in the Federal Register seeking comment on waiving certain groups from the CDL requirements. This Notice will be published within two weeks.

In summary, we believe the forums provided an excellent framework through which we were able to carry out a constructive dialogue with a major cross section of states, individuals and industry groups impacted by the Commercial Drivers License law.

POSTHEARING QUESTIONS OF THE CHAIRMAN AND THE ANSWERS

MOTOR CARRIER SAFETY

Question. Two years ago, Congress took significant steps to improve the safety record of the motor carrier industry by enacting the Commercial Motor Vehicle Safety Act of 1986. How do you view the progress that the Department is making toward improving safety in the motor carrier industry?

Response. The Department is making substantial progress in improving highway safety through programs administered by both the Federal Highway Administration (FHWA) and the National Highway Traffic Safety Administration (NHTSA). The most encouraging news we have about 1987 is the fall in the highway fatality rate. That rate, which has become the accepted standard of progress in highway safety, continued its downward trend from 3.3 deaths per 100 million miles traveled in 1980 and 2.5 in 1986 to an all-time low of 2.4 in 1987.

A number of new requirements and a grant program relating to commercial drivers were provided for in the Commercial Motor Vehicle Safety Act of 1986. Thus far, FHWA has met or exceeded the rulemaking schedule required by the Act. For example, FHWA published a final rule implementing the single license, notification of employer, driver disqualification, and penalty provisions of the Act of June 1, 1987. Other rulemakings required by the Act are well into the developmental stages and FHWA is on schedule in obligating basic grants to all States and the District of Columbia.

STAGGERS RAIL ACT

Question. Do you have any view on the Interstate Commerce Commission's implementation of the 1980 Staggers Rail Act, particularly as it relates to the treatment of captive and other shippers?

Response. Although it is clear that the 1980 regulatory reforms embodied in the Staggers Act have been beneficial to both the railroads and shippers overall, I believe that there was some valid concern in the early 1980's over the ability of the Interstate Commerce Commission to implement the new provisions of the Interstate Commerce Act effectively.

The Commission has both the authority and ability to carry out the provisions of the law in the balanced and market-sensitive manner intended by the Congress in 1980, and I believe the record shows that its action in recent years have fulfilled that mandate. In the last three years, the Commission has reviewed virtually every major aspect of its rail regulatory standards, and has adopted many of the key proposals made by shippers to address their concerns.

While the Administration remains concerned that captive shippers, small shippers in particular, not be disadvantaged by the procedural aspects of Commission proceedings, the results under the Staggers Act have been positive, including in the captive shippers areas. In the 7 years after passage of the Staggers Act, average rail rates (including contract and tariff rates) decreased by 7.6 percent in real terms. The same pattern applies across coal as well as other commodities. For grain traffic, average rail rates have gone down close to 50 percent in real terms, or more than 33 percent in current dollars.

Question. Do you have any recommendations to improve the safety of hazardous materials transportation, especially as related to driver training and routing?

Response. At present, the Department is moving forward with several important rulemakings that should have an important impact on safety. With respect to driver training, both the Federal Highway Administration (FHWA) and the Research and Special Programs Administration (RSPA) are active, the FHWA in its implementation of the Commercial Motor Vehicle Safety Act, and RSPA in its soon to be released notice of proposed rulemaking on training requirements for all persons handling hazardous materials including drivers. In addition, RSPA is developing a rulemaking proposal to prescribe highway routing standards for hazardous materials, based on its successful highway routing rule for radioactive materials.

The Department is also moving in the legislative area through proposed reauthorization of the Hazardous Materials Transportation Act (recently introduced as H.R. 4069) to pursue other important initiatives including: the safety permitting of motor carriers of certain high risk materials (i.e., explosives, materials toxic by inhalation, and high level radioactive materials); extension of the Department's regulations to intrastate transportation of hazardous materials; and the recognition of concurrent jurisdiction in the states to make highway route designations.

Taken together, I believe these actions constitute an effective strategy for assuring that the safety record for hazardous materials transportation continues to improve. While no panacea can be guaranteed, I believe implementation of these actions will constitute a practical and effective means of building on an excellent record, and providing a sound basis for determining what other programs may be required in the near future.